



Florida Department of Environmental Protection

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3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

September 29, 2009

Mr. Pedro Ramos, Park Superintendent
Big Cypress National Preserve
33100 Tamiami Trail East
Ochopee, FL 34141

RE: National Park Service - Big Cypress National Preserve - Addition
Draft General Management Plan/Wilderness Study/Off-Road Vehicle
Management Plan/Environmental Impact Statement - Collier County, Florida
SAI # FL200907154851C

Dear Superintendent Ramos:

The Florida State Clearinghouse, pursuant to Presidential Executive Order 12372, Gubernatorial Executive Order 95-359, the Coastal Zone Management Act (16, U.S.C. §§ 1451-1464, as amended), and the National Environmental Policy Act (42 U.S.C. Ch. 55), has coordinated a review of the Big Cypress National Preserve Addition *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* (the Draft Plan/EIS).

The Florida Department of Environmental Protection (Department) is designated the state's lead coastal management agency by Section 380.22, Florida Statutes (*F.S.*), to implement and enforce the Coastal Zone Management Act (16 U.S.C. 1451, et seq.). The Department has reviewed the Draft Plan/EIS under the provisions of 15 C.F.R. § 930 Subpart C, and hereby notifies the National Park Service (NPS) that the Draft Plan/EIS is inconsistent with the Department's statutory authorities under Chapters 253, 259 and 373, *F.S.* The bases for the Department's objections are set forth below, following a summary of comments received from other state and regional agencies. The comment letters from those agencies are attached and incorporated in this letter by reference.

SUMMARY OF STATE AGENCY COMMENTS

The Florida Department of Agriculture and Consumer Services' Division of Forestry notes that designation of large areas of wilderness in the Big Cypress National Preserve could significantly increase the risk of severe, damaging wildfires due to the accumulation of fuels. Natural wildfires will not be adequate to control fuels in the wilderness areas, because the historic natural conditions by which fires started and propagated no

longer exist, and the current landscape is fragmented by transportation corridors and developed areas. The inability to fight wildfires through the use of mechanized equipment in designated Wilderness areas will increase the risk that wildfires will contribute significant amounts of smoke on transportation corridors and in urban and rural areas, causing road closures and potential for damage to adjacent properties. The designation of any area as Wilderness must allow prescribed fire management that approximates historical fire regimes. The fire management program should reduce and maintain fuel loads, and allow the suppression of wildfires that threaten the public and surrounding resources through the use of mechanized equipment, if necessary. Such a prescribed fire program would enhance wilderness values and prevent their degradation from destructive wildfires.

The **Florida Fish and Wildlife Conservation Commission** (FWC) advises that it cannot support the Preferred Alternative, but finds that Alternative B has many of the elements its staff could strongly support if modified as recommended in the attached comment letter. Staff adamantly opposes designation of Wilderness areas in the Addition, as well as the establishment of Primitive Backcountry management zones.

FWC staff states that the Congressional acts establishing the Big Cypress National Preserve and Addition distinguished and set apart these public lands from typical national parks and recognized the importance of local cultural values and traditional recreational uses including fishing, hunting, trapping and associated vehicular access. The acts sought to integrate these values and uses in a unique management partnership between the federal government and the State of Florida. FWC staff believes the proposed Wilderness and Primitive Backcountry designations would result in restrictions on public access that would be inconsistent with these Congressional acts. Moreover, FWC staff believes the Wilderness designation would not be appropriate in these locations due to existing trails, historic patterns of use, and the difficulty in managing natural resources and public access.

The FWC recommends that the Wilderness designation be eliminated and the Primitive Backcountry management zones be changed to Backcountry Recreation management zones. FWC also recommends that the NPS utilize the existing roads and trails to provide a more comprehensive trail system for pedestrian access and other multiple uses. The FWC supports Alternative B's approach for issuing ORV permits for public access in Addition lands, as opposed to the Preferred Alternative's phased-in approach. In addition, FWC requests that the Record of Decision recognize FWC as an equal partner in the decision-making process for management of the Off-Road Vehicle (ORV) trail system.

The **Florida Department of Community Affairs (DCA)** recommends that the draft management plan be strengthened by a stronger focus on protection of the Addition's less-disturbed areas and restoration of surface hydrology. The agency indicates support for an alternative that designates the area south of Interstate-75 as Wilderness, with an appropriate buffer along the interstate highway and which includes specific authority to conduct fire management and invasive plant management utilizing mechanized equipment, if necessary. DCA recommends that the primary trail system south of I-75 be limited to trails that avoid key habitats and wetlands and minimize fragmentation of habitat. The agency also recommends that the trails south of I-75 be closed to recreational ORV use and thoroughly evaluated to ensure normal hydrologic flow.

The DCA notes that the Draft Plan/EIS did not contain sufficient information to confirm that ORV trails will be managed in a manner that does not impair Preserve resources. The agency therefore strongly recommends that a hydrologic study of the Addition be conducted to evaluate sheetflow impacts caused by the use of ORV trails. DCA also recommends adding enforcement measures to the plan for non-compliance with the Preserve's regulations on ORV use. It also urges completion of the panther behavior studies recommended in the 2000 and 2007 Biological Opinions issued by the U. S. Fish & Wildlife Service for the Preserve's ORV management plan. The agency encourages an appropriate evaluation of the discharge of approximately 60 million gallons of water from the Preserve via the S. R. 29 Canal into Chokoloskee Bay.

The DCA states that it will conditionally concur with the NPS' federal consistency determination if Wilderness designations in the Addition contain specific language authorizing the Park Superintendent to work with other federal, state and local agencies to prevent the spread of exotic plants, to use prescribed fire as a management tool for restoring and maintaining native plant communities, and to allow suppression and containment of wildfires that threaten adjacent natural or built areas by any means deemed appropriate, including mechanized equipment. Further, the final Management Plan must evaluate potential effects that ORV trail usage, maintenance and modifications will have on restoration benefits and surface hydrology associated with Comprehensive Everglades Restoration Plan (CERP) projects within and adjoining the Addition.

South Florida Water Management District (SFWMD) staff emphasizes the importance of hydrology and proper management of the water resources within, abutting and adjacent to the Addition lands in all decisions related to implementation of the General Management Plan. Staff recommends that the comments and concerns provided previously by the DEP, SFWMD, Miccosukee Tribe of Indians and Seminole Tribe of Florida be included and addressed in the adopted General Management Plan and final EIS. The SFWMD also suggests a number of updates and edits to the document regarding the Commercial Services Plan, potential limits of the manatee habitat/use areas, and amended Biological Opinion. The document should address the effects of

management plan implementation on the S.R. 29 (Barron River) Borrow Canal, Everglades City well field, and adjacent CERP projects.

Based on the information provided, the **Southwest Florida Regional Planning Council** (SWFRPC) finds the Draft Plan/EIS “Regionally Significant and Inconsistent”¹ with its Strategic Regional Policy Plan due to its magnitude and impacts on regional resources. Staff states that the alternatives analyses are incorrect in that they overestimate the public benefits and underestimate the adverse environmental impacts of the Preferred Alternative, and underestimate the benefits of Alternative F to the natural environment. In its comment letter, the SWFRPC provides a summary of the alternatives, identifying both beneficial and adverse effects. Staff finds that Alternative F best supports the regional Goals, Strategies, and Actions of the Strategic Regional Policy Plan, while providing more Wilderness area with fewer long-term adverse impacts to the region's hydrology, plants and wildlife. The SWFRPC finds that the Preferred Alternative – as currently presented – will not provide acceptable benefit levels to the region and will not enhance the health, safety and welfare of the region's population and habitats. The Preferred Alternative is, therefore, inconsistent with several Goals, Strategies, and Actions of the Strategic Regional Policy Plan's Natural Resources Element.

The **Florida Department of State** (DOS) has determined that the Draft Plan/EIS adequately addresses cultural and historical resources and concurs with the NPS's choice of the Preferred Alternative, but also agrees with the NPS's finding that implementation of the Preferred Alternative could adversely impact cultural resources. The DOS therefore concurs with the NPS that cultural resource (archaeological and other) surveys/investigations must be conducted in advance of ground-disturbing or other development activities that could adversely affect cultural and historical resources. The resulting surveys/investigations should be forwarded to the DOS for review and comment.

OBJECTIONS, COMMENTS AND RECOMMENDATIONS

The Department commends the NPS for its thorough evaluation of Addition lands and attempt to balance resource protection with a variety of public uses, including off-road vehicles (ORV). Even so, however, the Draft Plan/EIS failed to adequately address the following issues with regard to the Addition lands:

- 1. Control of invasive exotic species;**
- 2. Fire ecology (including suppression, maintenance and control); and**
- 3. Design of ORV trails to avoid hydrologic impacts.**

¹ Use of the term “inconsistent” in this paragraph is an artifact of the Strategic Regional Policy Plan and not indicative of a CZMA consistency determination. The SWFRPC is not a state agency authorized to submit a CZMA consistency determination under the Florida Coastal Management Program.

Exotic Species and Fire Ecology

The Draft Plan/EIS contemplates several alternatives that would involve designation of thousands of acres as Wilderness areas. The Department is concerned that current management practices in federal wilderness areas prohibit the use of mechanized fire suppression and invasive species control and maintenance. Because the fire-dependent ecosystems of this area cross several state-owned conservation lands and invasive species do not respect artificial boundaries, the prohibition on mechanized management would threaten the natural resources of areas owned by the Board of Trustees of the Internal Improvement Trust Fund (BOT), as well as those lands in the immediate vicinity targeted for acquisition under the *Florida Forever* Program (see attached map). Section 380.055, *F.S.*, contemplates eventual transfer of all of the state-owned lands in the Big Cypress National Preserve Addition to the federal government. The transfer has not been completed, and some of the lands are still titled to the BOT. In addition, most of the instruments conveying lands from the BOT to the federal government contain the following reverter clause:

In the event the United States of America ceases to use the land for purposes of conservation and protection of the natural resources and scenic beauty of the Big Cypress Areas, as set forth in the Big Cypress Conservation Act of 1973 and Public Law 93-440 approved October 11, 1974, title to said land shall automatically revert to the Board of Trustees of the Internal Improvement Trust Fund.

The BOT therefore retains authority over lands that are not yet transferred to the federal government, as well as a possible reverter in the lands previously conveyed. While the Draft Plan/EIS does encompass the purposes of conservation and resource protection, some aspects of the proposed management plan could result in harm to the natural resources contained in these lands.

Section 253.034(1), *F.S.*, states that “[l]ands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state’s natural resources. [The] lands shall be managed . . . to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources.” Section 253.034(5)(b), *F.S.*, provides that management goals must include measurable objectives for habitat restoration and improvement, hydrological preservation and restoration, sustainable forest management, and imperiled species habitat maintenance, enhancement and restoration, all of which require appropriate prescribed fire as a management tool. Finally, Section 259.032(10)(e), *F.S.*, requires management plans to contain key management activities necessary to achieve “restoring habitat, protecting threatened and endangered species, controlling the spread of nonnative plants and animals, performing prescribed fire activities, and other appropriate resource management.” Inadequate management activities on federal lands that lie adjacent to state-owned lands could result in harm to resources on state conservation lands and impact state land managers’ ability to implement meaningful control tools.

Recommendation/Condition:

Our review of the 1964 Wilderness Act and the Draft Plan/EIS has found that fire suppression and exotic species control are allowed in areas designated as Wilderness, except that mechanized control is prohibited in those designated areas. To ensure that adjacent natural and built areas are adequately protected from unconfined fires and the spread of exotics, any Wilderness designations in the Addition approved by Congress should contain specific language that allows the Park Superintendent of the Big Cypress National Preserve to work with other federal, state and local agencies to prevent the spread of exotic plants into and out of the Addition and to use prescribed fire as a management tool for restoring and maintaining native plant communities. In addition, any Wilderness designation should allow the Park Superintendent to suppress and contain fires that threaten adjacent natural or built areas by any means deemed appropriate – including mechanized equipment – in coordination with other federal, state and local agencies.

Hydrologic Impacts of ORV Trails

In both Alternative B and the Preferred Alternative, the NPS proposes the designation of up to 140 miles of primary ORV trails in the Addition lands. The Department and other state agencies have requested reports on current ORV use in the Preserve, but no reports or other data have been provided.

The Department concurs with the proposal for 140 miles of ORV trails in the Addition, but recommends that a three-year deadline be established for the issuance of the 700 permits described in the Draft Plan/EIS.

An analysis of ORV use under the Preferred Alternative states that improvements to existing trails and development of new ORV trails will create barriers to surface water flows due to raised trail treads, trail heads and general ORV use. Culverts and other best management practices must be used to avoid or reduce hydrologic impacts. The development or improvement of trails and the construction and operation of water control structures must obtain review and approval under Chapters 373 and 403, *F.S.*

Recommendation/Condition

Ongoing south Florida ecosystem restoration projects include several proposals for the restoration of surface water flows in the region, including the Big Cypress/L-28 Interceptor Modifications and the Seminole Tribe Big Cypress Water Conservation Plan, designed to reestablish sheet flow and restore the more natural water flows from the Big Cypress Reservation and into the Big Cypress National Preserve. The final Plan/EIS must evaluate the potential effects that ORV trail development will have on restoration

benefits expected from these projects. The selected plan should detail the proposed activities to facilitate the Department's determination of anticipated adverse impacts to south Florida ecosystem restoration projects identified under 373.470, *F.S.*, and whether the proposed activities comply with the requirements of Chapters 373 and 403, *F.S.*

In addition to the foregoing, the Department has several other concerns that should be addressed in the final plan and prior to the commencement of any activity that would require the issuance or renewal of a state license under Chapters 373 and 403, *F.S.* Final agency action on an application (*i.e.*, issuance or renewal of a license) for any activity regulated by the Department shall constitute the state's final determination on whether an activity is consistent with the federally approved Florida Coastal Management Program. *See* Sections 373.428 and 380.23, *F.S.* The Department has the following additional concerns:

- A. Paragraph 2 of the Department's letter dated August 27, 2001, identified several important issues, including the designation of waters and wetlands as "special waters" – a category of Outstanding Florida Waters that prohibits dredge-and-fill activities not clearly in the public interest. Public access features that involve adverse impacts to wetlands should be avoided. A copy of the 2001 letter is available upon request.
- B. The Florida Scenic Trail traverses the northeast portion of the Addition land and the portion of the Preserve that begins south of I-75. The maps for Alternative B and the Preferred Alternative depict some overlap between ORV and other trails. Potential conflicts should be evaluated and explained in the final Plan/EIS.
- C. Typically, in draft federal actions related to projects or plans of this importance, the NPS consults with the FWC and the U.S. Fish and Wildlife Service regarding Section 7 of the Endangered Species Act. The Department was unable to find in Appendix C any letters or comments from either agency addressing compliance with the Endangered Species Act.

Proposed Alternative

While the Department, DCA and FWC stand ready to defend their respective objections and comments herein, the agencies have reached general consensus on the acceptability of the following modifications:

The designation of 85,000 acres as Wilderness, where ORV use is prohibited, denies reasonable public access to areas open to hunting and other recreational activities. To more closely meet the needs of various user groups, the agencies recommend that the area north of I-75 and the western strip of Addition lands (along S.R. 29) proposed for Wilderness designation under the Preferred Alternative be removed

from that proposed designation and placed in a Backcountry Recreation management zone. The dominant goals of that management zone are the preservation of natural and cultural resources, restoration of degraded resources, and continuation of natural processes, while allowing compatible recreational uses supported by roads and trails.

In addition, the agencies propose that a half-mile buffer designated Backcountry Recreation be added to the south side of I-75 to accommodate the maintenance of current and future roadway infrastructure, and that a half-mile buffer – also designated Backcountry Recreation – be added to each side of the L-28 Interceptor Canal south of I-75 to the boundary of the Addition to accommodate current and future canal access, maintenance and restoration.

Conditional Concurrence

In accordance with 15 C.F.R. § 930.4, the Draft Plan/EIS will be consistent with the enforceable policies of the Florida Coastal Management Program and the Department will concur with the NPS' determination that the Draft Plan/EIS is consistent with the previously cited provisions of state law (in Chapters 253, 259 and 373, *F.S.*), **if and only if** the following conditions are satisfied:

- I. Any Wilderness designation in the Addition must include specific language that directs the Park Superintendent of Big Cypress National Preserve to work with other federal, state and local agencies to eradicate exotic plants and animals and prevent their spread into and out of the Addition; to use prescribed fire as a management tool for restoring and maintaining native plant communities; and to conduct necessary law enforcement activities. Any Wilderness designation must also include language directing the Park Superintendent to use the most effective and timely methods for conducting these critical management activities, including the use of mechanized equipment. In addition, any Wilderness designation must allow the Park Superintendent and cooperating agencies to suppress and contain fires that threaten adjacent natural or built areas using the most effective and timely methods, including the use of mechanized equipment.
- II. The final Plan/EIS must evaluate the potential effects that recreational development activities, including ORV trail modifications, will have on the surface hydrology of the area and the anticipated benefits of the South Florida ecosystem restoration projects identified in § 373.470, *F.S.* The selected alternative must provide details regarding proposed trail development and improvement activities, so the Department can determine whether the activities will adversely impact South Florida ecosystem restoration projects and whether the activities may be eligible for licensing under Chapters 373 and 403, *F.S.* The Department's evaluation of the trail development or improvement activities during its review

of the final Plan/EIS will not bind or prejudice any future determination of the Department or the South Florida Water Management District in their evaluation of applications submitted pursuant to Chapters 373 and 403, *F.S.*, nor shall the fulfillment of this condition for the purpose of the final Plan/EIS's consistency with state law be considered the final consistency determination for any of those applications.

Pursuant to 15 C.F.R. 930.4(a)(2), the NPS must either modify the Draft Plan/EIS to meet the Department's two conditions or immediately notify the Department that the conditions are not acceptable. If the conditions are not met, 15 C.F.R. 930.4(b) directs the parties to treat this conditional concurrence as an objection under 15 C.F.R. 930 Subpart C.

The Department appreciates the opportunity to review the Draft Plan/EIS. Should you have questions or require additional documentation, please do not hesitate to contact Ms. Lauren Milligan, Florida State Clearinghouse Coordinator, at (850) 245-2170 or Lauren.Milligan@dep.state.fl.us.

Sincerely,




Michael W. Sole
Secretary

cc: Tom Pelham, Secretary, Florida Department of Community Affairs
Ken Haddad, Executive Director, Fla. Fish & Wildlife Conservation Commission
Nick Wiley, Asst. Exec. Director, Fla. Fish & Wildlife Conservation Commission
Jim Karels, Director, Florida Division of Forestry
Kenneth Heatherington, Exec. Director, Southwest Fla. Regional Planning Council
Kim Shugar, South Florida Water Management District
Laura Kammerer, Florida Department of State
Jennifer Fitzwater, Florida Department of Environmental Protection
Bob Ballard, Florida Department of Environmental Protection
Greg Knecht, Florida Department of Environmental Protection
Marianne Gengenbach, Florida Department of Environmental Protection
Sally Mann, Florida Department of Environmental Protection
Danny Clayton, Florida Department of Environmental Protection
Kelly Samek, Florida Department of Environmental Protection
Mary Ann Poole, Fla. Fish & Wildlife Conservation Commission
David Kennedy, Director, NOAA Office of Ocean and Coastal Resource Mgmt.

Florida Department of Environmental Protection

Memorandum

TO: Lauren Milligan

FROM: Greg Knecht 

DATE: September 18, 2009

SUBJECT: National Park Service – Big Cypress National Preserve Addition –
Draft General Management Plan/Wilderness Study/Off-Road
Vehicle Management Plan/Environmental Impact Statement –
Collier County, Florida SAI # FL09-4851

Background

The National Park Service has prepared a draft General Management Plan, Wilderness Study, Off-Road Vehicle (ORV) Management Plan and Environmental Impact Statement, which will be the basis for managing the Addition land over the next 15 to 20 years. The draft plan includes detailed maps and narrative text that describe the four alternatives, including:

- The no-action alternative, which would result in a continuation of the existing management in the Addition. The Addition would remain closed to public recreational motorized use and motorized hunting. No wilderness would be proposed for designation.
- Alternative B, which would enable visitor participation in a wide variety of outdoor recreational experiences. Approximately 48,919 acres of land would be proposed for wilderness designation, and up to 140 miles of sustainable ORV trails would be designated and phased in as part of the conceptual primary ORV trail network. Secondary ORV trails, as defined in the plan, could be designated in any of the backcountry recreation areas, comprising approximately 94,817 acres, or 65 percent, of the Addition.
- The preferred alternative, which would provide diverse frontcountry and backcountry recreational opportunities, enhance day use and interpretive opportunities along road corridors, and enhance recreational opportunities with new facilities and services. Approximately 85,862 acres of land would be proposed for wilderness designation, and up to 140 miles of sustainable ORV trails would be designated and phased in as part of the conceptual primary ORV trail network. Secondary ORV trails, as

defined in the plan, could be designated only in the ORV trail corridors and other backcountry recreation areas, comprising approximately 52,431 acres, or 36 percent, of the Addition.

- Alternative F, which would emphasize resource preservation, restoration and research while providing recreational opportunities with limited facilities and support. This alternative would maximize the amount of land proposed for wilderness designation, about 111,601 acres, or 76 percent of the Addition. No ORV use would be available under this alternative.

Recommendation

We commend the Park Service for its thorough evaluation and attempt to balance the need for resource protection while allowing for a variety of uses, including off-road vehicles. However, we have identified three specific areas that require attention by the Service. First, we believe that the preferred alternative, which proposes wilderness designation of over 85,000 acres, of which off-road vehicle use is precluded, is excessive and removes areas that are open to hunting and other recreation activities from reasonable access.

The Department, in an effort to more closely meet the needs of all the various user groups, recommends that the area north of I -75 and the western addition lands (adjacent to hwy 29) proposed for wilderness designation under the Preferred Alternative be removed and placed in a Back Country Recreation Management Zone. The dominant goal of this management zone is the preservation of natural and cultural resources, restoration of degraded resources, and continuation of natural processes, while still allowing for compatible recreational uses supported by roads and trails.

We concur with the wilderness designation of the land south of I-75 as proposed in the Preferred Alternative, but with the recommendation of including a one-half mile buffer from I-75 in order to accommodate maintenance of current and future roadway infrastructure.

Second, it is our understanding from a review of the 1964 Wilderness Act and the Draft General Management Plan for the Addition land that fire suppression and exotic species management are allowed in areas designated as wilderness. To ensure that adjacent natural and built areas are adequately protected from unconfined fires and the spread of exotics, we ask that any proposed wilderness designation in the Addition that is approved by Congress contain specific language that allows the Superintendent of the Big Cypress National Preserve to

work with other federal, state and local agencies to prevent the spread of exotic plants into and out of the Addition and to use prescribed fire as a management tool for restoring and maintaining native plant communities. Additionally, the wilderness designation should allow the Superintendent of the Big Cypress National Preserve to suppress fires, by any means deemed appropriate, that threaten adjacent natural or built areas in coordination with other federal, state and local agencies.

Third, we concur with the proposal for 140 miles of ORV trails and recommend that a three-year deadline be established for the issuance of the 700 permits.. . Additionally, as addressed in number 4 below the Department needs to be consulted in the design and construction of the proposed ORV trails to ensure that any effect to water resources are acceptable under the Department's permitting authority.

Specific Comments

In addition to the comments above, we have several specific comments that would need to be addressed as part of the selected plan and/or prior to any proposed activities that would require the issuance or renewal of a state license in accordance with Chapters 373 and 403 Florida Statutes (F.S.). In accordance with Subsection 373.428 and 380.23, F.S., final agency action on an application (i.e. issuance or renewal of a license) for any activity regulated by the Department, shall constitute the State's final determination as to whether an activity is consistent with the federally approved Florida Coastal Zone Management Program.

1. Paragraph 2 of the Department's August 27, 2001 letter identifies several important issues, including the designation of waters and wetlands as "special waters," a category of Outstanding Florida Waters that prohibits dredge and fill activities not clearly in the public interest. Access features that involve adverse impacts to wetlands should be avoided.
2. The Florida Scenic Trail traverses the Northeast portion of the Addition land and the Preserve beginning south of I-75. A review of the map of Alternative B and the Preferred Alternative appears to have overlap with ORV and other trails. Potential conflicts should be evaluated and explained in the final document.
3. ORV use is contemplated in Alternative B and the Preferred Alternative. Our previous comment letter requested a report on the monitoring results of

current ORV use in the Preserve and potential future use to be analyzed to determine possible effects on the Addition.

4. An analysis of ORV use under the Preferred Alternative states that development, including improvements to existing trails and up to 140 miles of ORV trails will create barriers to surface water flow due to raised trail treads and ORV use. Culverts and other best management practices are to be used to reduce these impacts, but long-term, moderate to severe localized impacts are expected to occur. Information concerning the construction of trails and construction and operation of water control structures that will have or have the potential to adversely affect water resources of the state shall require appropriate review and approval under Chapter 373 and/or 403 F.S.

5. Ongoing south Florida ecosystem restoration projects include several proposals for restoration of surface water flows in the region, including the Big Cypress/L-28 Interceptor Modifications and the Seminole Tribe Big Cypress Water Conservation Plan that are designed to reestablish sheet flow and restore the more natural water flows from the Big Cypress Reservation and into the Big Cypress National Preserve. The document should evaluate the potential affects that the ORV trail development will have on the restoration benefits expected from these projects. Proposed activities should be further detailed as part of any selected plan in order to facilitate the Department's determination as to whether any adverse affects to south Florida ecosystem restoration projects identified under 373.470 F.S. are anticipated and whether the proposed activities are licensable under Chapter 373 and 403, F.S.

6. Typically, in draft federal actions related to projects or plans of this importance, there is consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act and related consultation with the Florida Fish and Wildlife Conservation Commission. We did not find any letters from either agency addressing compliance with the Act in Appendix C.



Florida Department of Agriculture and Consumer Services
CHARLES H. BRONSON, Commissioner
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Please Respond to:
Florida Division of Forestry
3125 Conner Boulevard
Tallahassee, Florida 32399-1650
Phone: 850-488-4274

August 26, 2009

Lauren P. Milligan, Environmental Manager
Florida State Clearinghouse
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Stop 47
Tallahassee, Florida 32399-3000

Dear Ms. Milligan:

Thank you for the opportunity to comment on the National Park Service Draft Plan/Environmental Impact Statement regarding Big Cypress National Preserve (SAI#: FL200907154851C).

Designation of large areas of wilderness in the Big Cypress National Preserve could significantly increase the risk of severe wildfires in the designated wilderness area due to the accumulation of fuels. Natural wildfires will not be adequate to control fuels in the wilderness areas because the landscape context in which these fires historically started and propagated no longer exists. This landscape is fragmented by transportation corridors and developed areas outside the Preserve, in which wildfires are controlled by wildfire suppression efforts. Wildfires that do occur in the unnaturally accumulated fuels will not behave as historical natural fires did. Their higher intensity and more complete coverage of the wilderness area will most likely cause severe damage to the vegetation and wildlife in the wilderness area.

The inability to fight wildfires in the designated wilderness will increase the risk that these wildfires will contribute significant amounts of smoke on transportation corridors and in urban and rural areas. Wildfires in this and surrounding areas frequently cause this main east-west artery (I-75) to be closed for extended periods. Major, uncontrollable wildfires in the designated wilderness will increase the risk that these wildfires will escape into surrounding areas and be even more difficult to control. A wilderness designation will exacerbate this situation as the use of mechanized equipment would be prohibited thus slowing suppression efforts. Uncontrollable wildfires that escape from the wilderness area will cause significant damage to natural and cultural resources, including residential, commercial and agricultural development.



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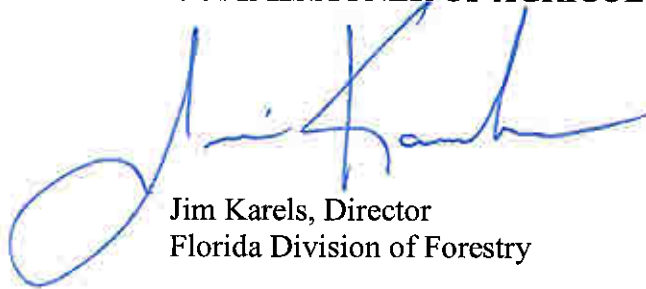
Ms. Lauren P. Milligan
August 26, 2009
Page Two

If a wilderness area is to be designated, the designation must provide for prescribed fire management in the wilderness area that approximates the historical fire regime. This prescribed fire program should be aimed toward reduction and maintenance of fuel loads, and provide for the ability to suppress wildfires that threaten surrounding resources and the public either through excessive smoke or through escaping wildfires. Such a prescribed fire program would enhance wilderness values and prevent their degradation from destructive wildfires. If a wilderness area is designated in the southeast corner of the addition boundary as shown on map 4 alternative B, it would help to alleviate some of the fire management concerns. This configuration would eliminate wilderness property along I- 75 corridors where active fuel management could be carried out thus reducing the impacts of wildfire.

Thank you for the opportunity to provide input into this land designation proposal.

Sincerely,

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

A handwritten signature in blue ink, appearing to read "Jim Karels", is written over the printed name and title.

Jim Karels, Director
Florida Division of Forestry

JRK/fw



September 8, 2009

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Ms. Lauren Milligan
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Florida Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 47
Tallahassee, Florida 32399-3000

Re: The Big Cypress National Preserve Addition, Draft General Management
Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact
Statement, SAI #FL200907154851C, Collier County

Dear Ms. Milligan:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the Big Cypress National Preserve's (BCNP) Preferred Alternative for the General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement ("draft GMP") and provides the following comments and recommendations in accordance with the BCNP Addition Act [Public Law (P.L.) 100-301], the National Environmental Policy Act, and the Florida Coastal Management Program/Coastal Zone Consistency Act.

As a cooperating manager of BCNP as the Big Cypress Wildlife Management Area, the FWC sincerely appreciates the leadership of Pedro Ramos, Superintendent of BCNP, and the dedicated work of National Park Service staff throughout this critical planning process. We appreciate their decisions to integrate several major planning elements into this draft GMP so the Addition can be opened for a broad spectrum of public access soon after the final GMP is approved and published. We also appreciate their willingness to include FWC staff in earlier reviews of the draft GMP, their willingness to listen to our concerns and ideas, and the fact that many of our suggestions are reflected in the draft GMP. We look forward to a time in the near future when the Addition is open to the full enjoyment of the public while protecting the natural diversity and integrity of this precious ecosystem as envisioned by Congress.

We have provided detailed comments and recommendations in the enclosed report. Below is a summary of our major findings:

1. We cannot support the Preferred Alternative, but find that Alternative B has many of the elements we could strongly support if modified as recommended in our report.
2. We adamantly oppose the wilderness designation in the Addition and the establishment of primitive backcountry management zones because this is a misapplication of wilderness designation. The Addition already has a significant number of trails with historic patterns of use. Further, wilderness designations would hinder management of natural resources and public access. We recommend that the wilderness designation be eliminated and the primitive backcountry management zones be changed to backcountry recreation management zones.

3. While we fully support a designated trail system for off-road vehicles (ORVs) and the proposed trails for non-motorized access, many miles of old roads and trails that have been in existence for more than 20 years are not designated for public use in the draft GMP. We recommend the National Park Service take full advantage of these existing roads and trails to provide a much more comprehensive trail system for pedestrian access and other multiple uses.
4. We support the approach in Alternative B for issuing ORV permits for public access into the Addition, as opposed to the phased-in approach proposed under the Preferred Alternative. Moreover, we urge the National Park Service to specify in the Record of Decision that they will recognize the FWC as an equal partner in the decision making process regarding management of the ORV trail system including closing or opening trails for ORV access.

The FWC has enjoyed a nearly four-decade history of partnering with the National Park Service at BCNP, and co-managing the original BCNP as the Big Cypress Wildlife Management Area. Since the BCNP Addition was established in 1988, the FWC has supported and encouraged including these public lands into the Big Cypress Wildlife Management Area to provide a full suite of public access and recreation including hunting, fishing, trapping, and other forms of recreational access consistent with the original purposes for establishing BCNP. We continue to support the inclusion of the Addition into the BCNP/Wildlife Management Area system to provide a diversity of fish- and wildlife-based recreational opportunities for the public.

We look forward to working with BCNP and other involved federal and state agencies, as well as with regional agencies and governments, to formulate the most appropriate approaches to managing significant resources in and associated with BCNP to maximize benefits to the public and fish and wildlife conservation. If you have any questions or would like to follow up on issues discussed in this letter or the enclosed report, please contact Chuck Collins, the Director of the FWC's South Region at 561-625-5131.

Sincerely,



Nick Wiley
Assistant Executive Director

nw/mp

cc: National Park Service, Denver Service Center, Big Cypress Planning Team
Superintendent Pedro Ramos, Ochopee, Florida

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PROJECT DESCRIPTION

On July 10, 2009, the National Park Service (NPS) published the draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement for the Big Cypress National Preserve (BCNP), which selected the Preferred Alternative from the revised alternatives for a General Management Plan (GMP) to manage the Addition over the next 15 to 20 years.

Alternatives

Four alternatives were considered in the preparation of this document: Alternative A, or the No-Action Alternative; Alternative B; the Preferred Alternative; and Alternative F. The Preferred Alternative would allow off-road vehicle (ORV) use with up to 140 miles of sustainable primary trails, gradually allow up to 700 permits for ORVs, provide new access points for other forms of recreational use (e.g., hunting, hiking, bicycling), and designate approximately 85,862 acres of wilderness in the Addition. It would also designate developed (18 acres), frontcountry (11 acres), backcountry recreation (52,431 acres), and primitive backcountry (93,426 acres) of management zones. Secondary ORV trails, as defined in the plan, could be designated only in the ORV trail corridors running through wilderness and backcountry primitive recreation areas. The proposed designated trail system under the Preferred Alternative would restrict use of motor vehicles and other mechanical transport to the designated trails.

The No-Action Alternative would maintain current conditions, including no motorized access into the Addition and no wilderness designation or frontcountry, primitive backcountry, backcountry recreation, or developed management zones in the Addition.

Alternative B would allow ORV use with up to 140 miles of sustainable primary trails and a limit of 700 ORV permits, provide new access points for other forms of recreational use (e.g., hunting, hiking, bicycling), and designate approximately 48,919 acres of wilderness in the Addition. It would also designate developed (18 acres), frontcountry (6 acres), backcountry recreation (94,817 acres), and primitive backcountry (51,045 acres) management zones.

Alternative F is the most restrictive alternative, prohibiting any ORV use except to provide access to owners of private inholdings, and designating about 111,601 acres of wilderness, nearly the entire amount that the NPS deemed eligible through their wilderness study. It would also designate developed (15 acres), frontcountry (6), backcountry recreation (3,422 acres), and primitive backcountry (142,442 acres) management zones.

Wilderness Designation and Establishment of Management Zones

An interdisciplinary NPS team evaluated the Addition in 2006 to determine what portions of the BCNP would be eligible for a wilderness designation. The basis for this review was whether the area had the following characteristics:

1. “Generally appear to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable,
2. Be undeveloped and retain its primeval character and influence, without permanent improvements or human habitation,
3. Be untrammelled by man, where man himself is a visitor who does not remain,
4. Offer outstanding opportunities for solitude or a primitive and unconfined type of recreation, and
5. Be protected and managed so as to preserve its natural conditions” (p. 114 of the draft plan).

Table 2 (“Management Zones”) in the draft GMP provides a comparison of the expected conditions, visitor experience, and appropriate types of facilities and activities for each type of management zone; however, we found no criteria outlined by which the NPS determined which parts of the Addition, in its current condition, qualified for the types of zone proposed.

BACKGROUND

The BCNP, comprising 582,000 acres in southwest Florida, was initially established on October 11, 1974, by P.L. 93-440. BCNP was expanded by an additional 147,000 acres in 1988 by Public Law (P.L.) 100-301, which is known as the “Addition Act.” Under P.L. 93-440, the purpose for designating these lands as a national preserve was “...to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof...” Section 5 of P.L. 93-440 requires that the Secretary of the Interior shall permit hunting, fishing, and trapping in accordance with federal and state laws and further requires that any restrictions relating to hunting, fishing, or trapping can be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Section 10 of P.L. 100-301 states that “The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging, and other traditional opportunities in conjunction with the creation of the Addition...”

The Florida Fish and Wildlife Conservation Commission (FWC) has enjoyed a nearly four-decade history of partnering with NPS at BCNP, having dedicated staff to help co-manage the original BCNP as the Big Cypress Wildlife Management Area (WMA). Since the BCNP Addition was established in 1988, the FWC has supported and encouraged including these public lands into the Big Cypress WMA to provide a full suite of public access and recreation including hunting, fishing, trapping, and other forms of recreational access consistent with the original purposes for establishing BCNP. In June of 2008, the FWC Commission took action in the form of a strong resolution and letter expressing concern that it has taken too many years for NPS to open the Addition to public access and hunting, and urging NPS to expedite the planning process; open the Addition to the public as soon as possible; and provide traditional forms of public access that are in high demand in south Florida and long overdue on the Addition.

CONCERNS, ISSUES, AND RECOMMENDATIONS

OVERVIEW

FWC staff reviewed all of the alternatives within the context of our longstanding cooperative relationship with NPS, a long history of experience managing fish and wildlife resources and public hunting in the BCNP, and the pertinent acts of Congress that mandate recreational access for the public balanced with responsible management and protection of fish and wildlife resources and their habitats. Staff finds that the FWC cannot support the Preferred Alternative, primarily because of the proposal to designate parts of the Addition as wilderness and the establishment of the backcountry primitive management zone, and because of the phased approach taken to allowing ORVs access to the designated trails. On the other hand, Alternative B has many of the elements of an alternative that we could strongly support. We do not support the No-Action because it maintains the status quo of no motorized access to the Addition, nor do we support Alternative F because it also does not allow motorized access to the Addition.

Concern: Wilderness Designation

Although the FWC understands that Congress mandated a wilderness study for the Addition, we adamantly oppose the designation of 85,862 of wilderness in the Addition. The concept of wilderness has become an established part of the nation's land-use policy to preserve natural areas, and as such has come to represent an expectation that wild areas are places where natural processes can proceed unimpeded by human actions. In Florida, experience has taught us that this expectation is impossible to attain and that this approach is, in fact, the antithesis of natural resource management in much of Florida.

Two concerns in particular lead us to this conclusion. One is the expectation that wildfires ignited by lightning would run their courses naturally, resulting in naturally maintained ecosystems. That is almost never the case in Florida because the landscape has been profoundly altered by canals, levees, roads, and other man-made structures that impede fire. Altered fire cycles caused by infrequent burning allow the accumulation of plant litter, which in turn acts as fuel for catastrophic wildfires that cause adverse ecological impacts.

The other concern is that, while the wilderness designation is intended to provide a level of security that these areas will not be further degraded, our experience in south Florida has shown us that managers must have flexibility to react quickly to unanticipated stressors on the natural system. An obvious and recent example of this need to react quickly and decisively is the invasion of Burmese pythons in south Florida. While contingencies can be written into the plans for managing specific wilderness areas, it is impossible to conceive of every situation that may arise in the future. This has shown itself to be particularly true in south Florida, where the hydrologic regime has been so altered, management options constrained, and exotic plant and animal species have been introduced with unexpected and undesirable consequences.

In terms of resource protection, we believe that the same level can be achieved on the Addition without designating acreage as wilderness. The main advantage of wilderness designation therefore seems to be some perceived assurance that protection of the lands and their resources would be more permanent than without the designation. The concern is that, for instance,

without wilderness designation, resource protections could be undone based on changing management philosophies of NPS staff. This concern over the permanence of resource protection is unfounded. Levels of protection are ensured by the GMP, which is developed through a public process, and it is our understanding that any departures would necessarily have to be cleared through a NEPA process for revising the GMP. The purpose of wilderness designation of Addition lands, therefore, must be seriously questioned given the lack of real benefits and the strong potential for wilderness designation to hinder necessary management.

These factors cannot be ignored given that wilderness designation is such a serious decision with long-term consequences once adopted by Congress.

Concern: Primitive Backcountry Management Zone

Our concerns with respect to establishing portions of the Addition as a primitive backcountry management zone closely parallel our concerns about designating portions as wilderness. While the primitive backcountry management zone may not preclude rapid responses to unexpected resource management problems, it is similar in that it may prohibit access by motorized vehicles.

Concern: Phased Approach to Allowing ORVs Access to Trails

The Preferred Alternative would allow up to 700 ORV permits in a phased approach, with the number of permits issued being proportional to the amount of trail established at the time. The draft document provides no information as to how frequently the level of access would be assessed, nor does it offer an expected time of trail completion. The FWC is very sensitive to the fact that it has taken over 20 years since establishment to open the Addition to all public access except a limited amount on the Florida Trail. Given this history, we have reason to be concerned that an open-ended phased approach will also take a long period of time.

Issue: Compatibility of ORV Use with Natural Resource Management

From our experience in managing the Bear Island Unit of the BCNP, and from data collected on the response of the Florida panther to existing ORV use, we believe that responsible management of ORV use is compatible with the goals of resource management including protection of imperiled species such as the Florida panther.

DETAILED REVIEW

Wilderness Designation and Primitive Backcountry Management Zone

All of the alternatives except the No-Action Alternative include a wilderness designation ranging in total acreage from 48,919 up to 111,601, most if not all of which is also managed as primitive backcountry. All of these alternatives designate wilderness both north and south of Interstate 75 (I-75) and along a roughly one-mile strip running along the eastern side of State Road 29. All of these alternatives except Alternative B designate the bulk of the Addition (the northeastern component) as wilderness and propose most of this component to be managed as primitive backcountry.

As the following comments are considered, it is important to keep in mind the definition of “wilderness” under the Wilderness Act of 1964, which follows: *“A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and community of life are untrammeled by man, where man himself is a visitor who does not remain.”* Wilderness designation under this act generally prohibits road construction, use of motor vehicles, use of motorized equipment, landing of aircraft, other forms of mechanical transport such as bicycles, and commercial enterprises.

The FWC recognizes the value of wilderness designation in certain ecosystems or landscapes where Wilderness Act prohibitions and restrictions are necessary and warranted; however, we have found significant fault regarding the process and, consequently, the findings of this NPS wilderness study. The study was completed entirely by NPS staff; we are not aware of any consultation with or participation by other partner agencies in developing this study. Because several state and federal agencies play key roles in managing the network of public lands in which BCNP is embedded, we believe that NPS should have reached out to its local neighboring managers and cooperating agencies in developing this study. Consultation with cooperating agencies could have addressed many questions and concerns up front and ensured an objective and fully informed result.

FWC staff, with years of direct knowledge and experience in the Addition, can see no basis for characterizing the proposed wilderness areas as having “the imprint of man’s work substantially unnoticeable” since these areas have been subjected to agriculture, cattle raising, logging, and oil exploration. Some portions are infested by exotic vegetation. These areas are crosscut and fragmented by numerous trails; contain private inholdings; and are positioned immediately adjacent to I-75, which is a major corridor for vehicular traffic across south Florida. Florida Department of Transportation estimates of vehicular traffic on this part of I-75 ranges from 17,500 to 21,709 AADT (average annual daily traffic).

The most striking example of the misapplication of wilderness designation is the “western addition.” Clearly this area does not meet the definition of wilderness and should not have been identified as eligible for wilderness. This property is highly subject to the influence of anthropomorphic factors (e.g., exotic plants and animals, feral animals, and wildfires) and does not conform to the definition of “untrammeled” as “not confined or hindered, not limited; being free and easy” (NPS 2009). On the contrary, this narrow strip of land, which is bordered by SR 29 with a canal and fence running the length of the road and with private property dispersed throughout, does indeed appear to be “confined.” It also does not conform to the criterion of “[o]ffer[ing] outstanding opportunities for solitude or a primitive and unconfined type of recreation.” The draft GMP even notes that “[o]pportunities for solitude in the western Addition are reduced due to the presence of developed areas along the highway corridors, such as near Miles City, Copeland, Carnestown, and Everglades City, and near popular areas like Bear Island Grade.”

We have serious concerns about the unintended consequences of federal wilderness designation in the Addition. Furthermore, we find that it is unnecessary, unwarranted, and will significantly impair the ability of the NPS, FWC, and other management partners to carry out management activities that are critical to fish and wildlife conservation and maintaining public access on a

long-term basis. Moreover, FWC asserts that the proposed designated trail system, along with the fact that these lands are established as a “national preserve”, will provide the same level of resource protection and higher recreational values as wilderness without severe restrictions on active resource management and public access.

Finally, we note that the various wilderness areas are proposed on top of a primitive backcountry management zone designation. While primitive backcountry management zones are not as restrictive on management and public access as wilderness, FWC asserts that this designation is unnecessary given that motorized uses will be managed through a designated trail system.

Management Challenges for Addition Areas Designated as Wilderness

There is no question that active management is needed to effectively sustain native plant and animal species, particularly imperiled species, given the threats from exotic plants and animals, presence of fire-dependent plant communities, and the dynamic nature of south Florida hydrology. The FWC is seriously concerned that active management would be significantly reduced under wilderness designation primarily due to restrictions on motorized vehicles and equipment and constraints on timely use of the most effective methods and technology available. Experience with other wilderness areas in Florida suggests the “minimum tool” process for authorizing certain management tools as allowed in the Wilderness Act is simply not an effective approach for managers to maintain the integrity and stability of native fish and wildlife populations and habitats over the long term, particularly in south Florida. The complex south Florida environment creates problems for natural resource managers because of a highly managed hydrology, limited management options due to the existing infrastructure, and the introduction of exotic plants and animals. The BCNP Addition is clearly an area for which wilderness designation could do more harm than good over the long term.

Mechanized vehicles and equipment are essential to other important management activities within the Addition. For example, panther biologists frequently encounter unplanned situations that require the use of mechanized equipment for research, tracking, or collaring activities. Law enforcement officers also routinely encounter situations that require quick action and mechanized equipment to protect the public, natural resources and enforce existing laws. We realize there are contingencies in wilderness areas to address situations such as search and rescue; however, time is sometimes critical and rescuers must be allowed to spontaneously change tactics. In these situations, we cannot afford a lengthy approval process to identify the minimum necessary tools to be compatible with wilderness restrictions, and we do not believe it is feasible to secure approval in advance when many situations and circumstances are unpredictable and unforeseeable.

Concern: Management Challenges Associated with Invasive Exotic Species

Invasive exotic plant and animal species in south Florida are a serious threat to the ecological integrity and stability of native fish and wildlife populations. The draft GMP provides a good overview of ongoing active management efforts necessary to control particularly invasive and harmful exotic plants including melaleuca, Brazilian pepper, and old world climbing fern. The draft GMP lists “controlling invasive alien species” as a permitted management activity in

wilderness; however, the FWC is very concerned that some of the most effective methods of treatment requiring use of mechanized and aerial equipment will be restricted or prohibited in portions of the Addition designated as wilderness, and that many of the roads and trails necessary for access to treat exotic plants or capture exotic animals are likely to be off limits to vehicular access as well.

The FWC understands how challenging and costly it can be to control exotic species and how much impact, if left unchecked, these exotic species can have on native fish and wildlife and their habitats. We believe for these reasons, it would be a serious mistake to designate wilderness where the “forces of nature would be allowed to operate unrestrained and unaltered” in the Addition. We believe that, over the long term, managing the area according the requirements of the Wilderness Act of 1964 in the Addition would eventually transform into an exotic landscape bearing little resemblance to native Big Cypress ecosystems we treasure today. This outcome would clearly violate the very purposes Congress identified in P.L. 93-440 and P.L. 100-301 for establishment of the BCNP and the Addition. The FWC places these purposes above any value that may be associated with wilderness designation over such a large portion of the Addition and takes little comfort in the “minimum tools” approach to address these concerns.

The FWC has had extensive experience with managing lands invaded by exotic plants and animals. We are the lead manager for the majority of the Everglades Water Conservation Areas and several other large properties in south Florida where exotic plants and animals are a major ongoing management problem. The FWC is partnering with a number of state and federal agencies, including NPS at BCNP, to implement aggressive measures to control the spread of reptiles of concern, specifically Burmese pythons. In addition, since its inception in 1997, Florida’s invasive plant management program, which is now housed in FWC, has spent \$1,031,656 to actively treat upland exotic plants on BCNP, and over \$92,000,000 has been expended on upland exotic plant control treatments statewide with a large portion of this effort focused on south Florida.

These are just a few examples of our experience with exotic plants and animals and basis for our strong interest in maintaining flexibility to use all available management tools to actively and aggressively address this serious problem. Many of the problems associated with invasive exotic species we are fighting today are ones that were not foreseen, but we have learned that the most effective responses often require rapid and innovative solutions.

Recommendation: *We adamantly oppose and very strongly recommend withdrawal of the wilderness designation, and recommend replacing the primitive backcountry management zone with a recreational backcountry management zone to maintain the flexibility for natural resource managers to respond timely and efficiently to unexpected natural resource management challenges related to control of exotic invasive species.*

Concern: Challenges Associated with Fire Management

Many of the habitats in the Addition so critical for maintaining native wildlife diversity depend on frequent fire. In fact, according to the draft GMP, roughly 90% of the Addition consists of plant communities that require periodic fire for perpetuation. The draft GMP does an excellent

job explaining the importance of frequent fire in the Addition and the serious implications when areas go without natural or prescribed fires for even a few years. The following excerpt from the draft GMP illustrates this point:

“Although periodic surface fires tend to maintain certain communities, extreme fire conditions can dramatically alter plant, and consequently animal, distribution. When the fire cycle is retarded, organic materials accumulate and create hazardous fuel levels that can threaten even fire-tolerant species. Prolonged droughts or human-caused drainage can dry out the organic soils of many plant communities and, when coupled with hazardous fuel accumulations, can result in intense fires that consume organic soil materials. Peat fires, as such fires are called, can literally burn the soil out from under established vegetation, radically changing the plant composition. Peat fires tend to lower the surface level of the burned area, thereby extending the hydroperiod and affecting the replacement vegetation. The pond in the middle of a cypress dome, for instance, may be enlarged by a peat fire. In an extreme example, a hardwood hammock on deep organic soil may be completely burned and replaced by an open pond.”

FWC views prescribed fire as another active management tool that would be compromised and constrained by wilderness designation. Historically, before roads and canals were established and hydroperiods were altered significantly, natural lightning-ignited fires would provide the frequent fire necessary to maintain these habitats. Human influences have changed the landscape in the Addition so much that natural fires do not burn frequently enough, wildfires burn with too much intensity, and prescribed fires are necessary to maintain native fire-dependent plant communities and protect against catastrophic wildfires. Effective use of prescribed fire over large landscapes requires use of mechanized equipment and a good network of roads and trails accessible by managers only for these purposes. The Addition has an extensive network of roads and trails that were historically used to manage and contain fire when these lands were in private ownership. Under wilderness designation, most of this trail system would be off limits to vehicular access even for prescribed burning by NPS staff.

While “fire management activities (including fire suppression)” are listed in the draft GMP as permitted in wilderness, a review of wilderness management suggests that fire management tools and tactics are significantly restricted in wilderness areas. This makes it much more difficult for managers to burn enough land with enough frequency to sustain key wildlife habitats and prevent catastrophic wildfires over the long term. This situation is further complicated by the presence of I-75 and State Road 29 corridors. Without the use of mechanized equipment and existing roads and trails, it will be difficult, if not impossible at times, to keep the size of prescribed burns small enough for safe and effective smoke management thus preventing potential danger to motorists on these busy roads.

Recommendation: *As with concerns with management of invasive exotic species, we adamantly oppose and very strongly recommend withdrawal of the wilderness designation, and recommend replacing the primitive backcountry management zone with a recreational backcountry management zone to maintain the flexibility for management of fire as necessary for protecting the integrity of native fish and wildlife habitats.*

The preceding clearly illustrates critical concerns regarding wilderness and resource management in south Florida. FWC views the designated trail system proposed under Alternative B without wilderness as the absolute best approach for retaining the flexibility for management activities critical for protecting the integrity of wildlife habitats and sustaining appropriate public access. The designated trail system would be well defined and limited by the GMP without the wilderness or primitive backcountry designation. Pedestrian access would be the only way the public can access lands outside the designated trail system. This is essentially the same access situation with wilderness/primitive backcountry. Any other wilderness prohibitions not addressed by the designated trail system, to the extent they are really necessary, could readily be provided through federal or state regulations. This approach maintains much greater flexibility to adapt to changes over time given the dynamic nature of south Florida ecosystems.

Public Access and the Designated Trail System

The FWC applauds and fully supports elements of Alternative B that provide a range of options for public recreational access including hiking trails, ORV trails, multiple-use trails, and use of ORVs on designated trails for public hunting and fishing. A review of the history and records associated with establishment of the BCNP and the Addition leaves no doubt that the U.S. Congress and the State of Florida intended to provide traditional recreational opportunities, including vehicular access for public hunting and fishing. These are the fundamental purposes behind the designation of this area as a “*national preserve*” rather than a “*national park*.” The records associated with establishment of BCNP indicate that the “*national preserve*” designation was used in this region of Florida to recognize and preserve traditional uses and methods of access including ORV access and hunting that typically would not be allowed on lands designated as a “*national park*.” Central to these traditional uses and of particular importance to FWC is access for public hunting and fishing associated with the “Gladesmen” culture in south Florida as described by Greg Smith in an *Ethnographic Study of Traditional Cultural Properties of the Gladesmen Culture* authorized by the U.S. Army Corps of Engineers in association with the Comprehensive Everglades Restoration Plan and published in May of 2009.

Issue: Compatibility of ORV Trails with Resource Management Needs

The proposed system of designated ORV trails in Alternative B is more aligned with the original intent of the enabling legislation for the purpose of providing access for traditional and cultural uses, provided this access is managed and regulated in a manner similar to that on the Bear Island Unit of BCNP. The traditional and cultural uses referenced in the enabling legislation historically depended on the use of vehicles for access. FWC staff asserts that the designated trail management system in place on the Bear Island Unit and other portions of BCNP have clearly demonstrated how ORV access and public hunting can be successfully integrated with other recreational uses and natural resource protection. We commend NPS staff for responding to the input and interests of the people who wish to explore and enjoy the Addition by vehicle using a sustainable designated trail system. We further commend NPS staff for honoring the intent and spirit of the Congressional acts and associated federal and state laws that established the BCNP and the Addition by allowing use of ORVs for public hunting and fishing.

Issue: Compatibility with Florida Panther Conservation

The FWC also commends NPS staff for recognizing the importance of implementing public access in the Addition in a manner that is compatible with managing and protecting Florida panthers. We are pleased to see Alternative B and the Preferred Alternative include a designated trail system with careful management of ORV access and public hunting in partnership with FWC. Our partnership in this regard reflects a long history of experience and success on the original BCNP where we have adjusted hunting and public-use regulations, including use of ORVs, over the years to ensure that these activities are compatible with panther conservation. FWC panther biologists have reviewed tracking data, published literature, and internal NPS and FWC reports and have concluded that BCNP supports more panthers today than when this species was first listed as an endangered species in 1967 (FWC 2008). We cannot say whether this increase in numbers is the direct result of our joint management efforts, the population hitting a critical mass that allowed for rapid expansion, the fact that all subspecies of puma are highly adaptable, or most likely, a combination of these and other factors. The FWC believes strongly, however, that panthers and public use, including the use of ORVs and hunting, would also be compatible on the Addition as long as appropriate management strategies such as those in place on the Bear Island Unit are established and implemented.

Several reports and biological opinions reference the 2002 Janis and Clark study as the best available science with regard to panther response to ORV use. This report suggests that ORV use during hunting season has an effect on panther movements, but indicates these effects are probably minor from a biological perspective (Janis and Clark 2002). In fact, Janis and Clark (2002) observed that panthers were located 683 meters from designated ORV trails during hunting season and 503 meters away from trails before hunting season which is a difference of 180 meters, and this difference may be the result of deer moving away from trails followed by a panther response to their prey movements. The FWC asserts that the suggestions of the Janis and Clark (2002) study should be considered in the context of panther population changes over time, current ORV trail management practices in BCNP, as well as the ratio of ORV trails to available panther habitat on BCNP. It is clear that panther populations in the Big Cypress area have increased significantly over the past 15 years while at the same time trail-based ORV use has been permitted across much of BCNP. FWC's panther team have found that ORV trails are utilized by panthers as they move throughout their home ranges as evidenced by tracking surveys and camera traps. The designated ORV trail system represents a small fraction of the landscape within BCNP, and large blocks of habitat are available through which no vehicular access is permitted. This would also be the case on the Addition with the designated trail system proposed under the Alternative B and the Preferred Alternative. When these factors are all considered together, they do not support the conclusion that ORV use and hunting in the Addition as with the rest of BCNP under a designated trail management system is detrimental to panthers.

Concern: Connectivity of the Addition Trails with Those on Existing BCNP Units

The draft document does not address connectivity between authorized trails on the original portion of the BCNP and those proposed under Alternative B and the Preferred Alternative. Establishing a trail system that connects the existing with the proposed trails would allow users more convenient access to the rest of the preserve. This action would accommodate the future

integration of the Addition into the Corn Dance and Turner River units for hunt management purposes and would allow more seamless management of the BCNP as a whole.

Recommendation: *Establish a trail system connecting the Addition to bordering BCNP. We also recommend expanding the use of the Bear Island/State Road 29 access point to include recreational access for the Addition. This would provide an additional access point for the western portion of the area from the Bear Island Unit.*

Issue: Enforcement of ORV Use on Designated Trail System.

FWC asserts that NPS has a strong set of regulations and educational programs to assure ORV use of designated trails is enforceable. FWC enforcement has worked closely with NPS enforcement to develop and implement a successful approach to enforcement of ORV use in the original BCNP. The recent track record for enforcement of designated trails in the original BCNP should serve as an excellent example of this success. We have forged a close enforcement partnership with NPS and are working to formalize this partnership in a mutual aid agreement. FWC is fully committed to providing law enforcement support and resources as needed to insure ORV use of designated trails in the Addition is enforced appropriately. For these reasons, FWC is highly confident of enforcement capabilities with regard to the designated trail system and believes successfully focusing vehicular access on the designated trail system is a key to protecting fish and wildlife species and habitats in the Addition while providing appropriate access for public use and enjoyment.

Recommendation: *Complete and execute a mutual aid law enforcement agreement between NPS/BCNP and FWC to formalize our law enforcement partnership as soon as possible.*

Concern: Pedestrian Access

While the FWC fully supports a designated trail system that allows ORV/vehicular access for the public, we also believe it is highly desirable to make use of the larger network of open roads and trails for pedestrian access. We note that there are many miles of old roads and trails in the Addition that were not identified as sustainable for multiple use or ORV use. As we understand all of the alternatives except the No-Action Alternative, these old roads and trails would be open for pedestrian access, but there is no plan to formally designate and maintain these trails for continued use. We believe this approach is missing an important opportunity to provide additional access throughout the Addition for hiking, wildlife viewing, hunting, and other multiple uses.

We understand trail management and maintenance would be required to keep a system of pedestrian trails open and accessible for the public. If these trails are not formally designated for multiple uses and necessary management in the final GMP, the FWC is concerned that they will not be maintained and will eventually close in with native and exotic vegetation and no longer be accessible to the public.

Recommendation: *We highly recommend a modification of the draft GMP to formally designate, open and maintain a large portion of these roads and trails for multiple uses. We would*

encourage linkages to access points and primary ORV trails throughout the Addition to facilitate sustainable pedestrian access across more of the property. Additionally, we would welcome the opportunity to partner with NPS to help develop a more comprehensive pedestrian trail system in the Addition and would be happy to endorse Recreation Trail Program grant applications for both pedestrian and ORV trail projects.

Concern: Phasing in ORV Trail Access

The FWC is extremely sensitive to the fact that it has taken an inordinate number of years to open the Addition to public hunting and ORV access. Given this history, it is reasonable to have strong and valid concerns that phasing in ORV access across the Addition, as proposed by the Preferred Alternative, may likewise take a long period of time.

We assert that a quota-based permitting system should be used to manage the levels of ORV use throughout the designated trail system. This approach will show a good faith effort to more fully allow public ORV access across the entirety of the Addition. The FWC is fully committed to continue working closely with NPS to open all designated ORV trails for access to public hunting as quickly as possible.

Recommendation: *We recommend retaining the approach proposed by Alternative B, which does not incorporate phased-in ORV access. Moreover, given the provisions of P.L. 93-440 and P.L. 100-301 that call for cooperation and consultation with the State of Florida, the FWC urges NPS to specify in their final record of decision that NPS will fully consult and cooperate with FWC in any and all decisions regarding the initial opening of designated trails for ORV access and subsequent decisions regarding closing or opening designated trails to ORV access. It should be specified in the final Record of Decision that “consult and cooperate” means that the FWC and NPS shall share in the decision-making process and that such decisions will not be finalized or implemented without the consent and support of both parties.*

SUMMARY

The FWC fully supports the incorporation of the Addition into the BCNP/WMA system to provide a diversity of fish and wildlife based recreational opportunities for the public. We applaud NPS for proposing significant opportunities for public access and recreation. We cannot support the Preferred Alternative, but do find that we could support a revised version of Alternative B if it incorporates the recommendations in this report and our cover letter. Primary among those modifications, the FWC respectfully requests and strongly urges that NPS withdraw the proposal to designate any of the Addition as federal wilderness and replace the primitive backcountry management zone with the backcountry recreation management zone. We do not believe the original purposes for establishing the BCNP and the Addition can be achieved with this area set aside as wilderness or primitive backcountry, and we believe this wilderness proposal suffers seriously from a lack of collaboration with the State of Florida and cooperating agencies regarding several key concerns as outlined in this letter. Also, we urge NPS to expedite the process for opening all designated ORV trails to public access as quickly as possible. We value our partnership with NPS staff at BCNP and are committed to working with them

throughout the remainder of this process to develop the best possible package of protections for fish and wildlife resources while providing ample opportunities for public access and enjoyment.

References Cited:

- FWC. 2008. A Summary Report on: Public Use, Off Road Vehicles, and Florida Panthers in the Big Cypress National Preserve and the Addition. Unpublished report dated December 29, 2008. Tallahassee, FL.
- Janis, M.W., and J.D. Clark. 2002. Responses of Florida panthers to recreational deer and hog hunting. *Journal of Wildlife Management* 66:839-848.
- NPS. 2009. Big Cypress National Preserve: Frequently Asked Questions about Wilderness

Resolution

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION RESOLUTION REGARDING

The Draft GENERAL MANAGEMENT PLAN for the BIG CYPRESS NATIONAL PRESERVE ADDITION



Florida Fish
and Wildlife
Conservation
Commission

WHEREAS, the Florida Fish and Wildlife Conservation Commission is a constitutionally created agency dedicated to managing fish and wildlife resources for their long-term well-being and the benefit of people, and

WHEREAS, the Big Cypress National Preserve was established by an Act of the United States Congress to preserve and protect natural scenic, hydrologic, floral, faunal, and recreational values of the Big Cypress Watershed, and

WHEREAS, the Big Cypress National Preserve Addition was established by an Act of the United States Congress to provide public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve, and

WHEREAS, the State of Florida was a major partner with the Federal Government in the acquisition of the lands that compose the Addition, and

WHEREAS, the express intent of the Congressional acts establishing the Big Cypress National Preserve and Addition is to distinguish and set apart these public lands from typical national parks and thereby recognize the importance of local cultural values and integrate those values into a unique management paradigm that provides for traditional public use and enjoyment of south Florida's natural resources, and

WHEREAS, these acts of Congress or implementing federal laws call for the Federal Government and its agencies to cooperate with the State of Florida to establish wildlife protection and recreational opportunities, and

WHEREAS, these acts of Congress or implementing federal laws require that hunting, fishing, trapping, and other traditional recreational opportunities shall be permitted in the Big Cypress National Preserve and Addition, and

WHEREAS, these acts of Congress or implementing federal laws call for the National Park Service to consult with the State of Florida prior to implementation of regulations restricting activities, and

WHEREAS, these acts of Congress or implementing federal laws require that any action by the National Park Service to control or limit the use of motorized vehicles must be reasonable, equitable, and justified in terms of public enjoyment and important resource protection, and

WHEREAS, the Florida Fish and Wildlife Conservation Commission strongly believes in making public lands as accessible as possible to the public for their use, education, and enjoyment while maintaining fish and wildlife conservation values, and

WHEREAS, on July 10, 2009, the National Park Service has published a draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement for the Big Cypress National Preserve Addition, which includes a Preferred Alternative for public access and management, and

WHEREAS, the period for public review and comment on the draft General Management Plan for the addition is currently open, and staff of the Florida Fish and Wildlife Commission has submitted comments on behalf of this Commission,

NOW THEREFORE, be it resolved by the Florida Fish and Wildlife Conservation Commission in a duly constituted and assembled meeting:

- 1. That we do hereby express our firm support for the comments submitted by Commission staff dated September 8th, 2009;**
- 2. That we do hereby applaud elements of the draft General Management Plan that provide a diversity of public access and recreation that includes a designated trail system that will support enjoyment of these lands by the public;**
- 3. That we do hereby emphasize the Commission's adamant opposition to wilderness designation in the Addition as proposed in draft General Management Plan alternatives;**
- 4. That we do hereby express strong concern that the wilderness designation would unnecessarily hinder natural resource management including control of invasive exotic species and maintenance of native fish and wildlife habitats;**
- 5. That we do hereby express strong concern that proposed wilderness designation and primitive backcountry management zones as proposed in draft General Management Plan alternatives would not provide necessary flexibility for management of public access and would result in restrictions on public access too far below appropriate and sustainable levels;**
- 6. That we do hereby urge the Department of the Interior and the National Park Service to incorporate Commission recommendations regarding the draft General Management Plan for the Addition into the final Record of Decision to include removal of proposed wilderness designation and primitive backcountry management zones;**
- 7. That we do hereby record the sentiments of this resolution forevermore in the minutes and records of the Florida Fish and Wildlife Conservation Commission.**

DONE AND RESOLVED at Howie-in-the-Hills, Florida this 9th day of September, 2009.

**FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

Rodney Barreto, Chairman

Kathy Baron, Vice-Chair

Ronald M. Bergeron, Commissioner

Richard Corbett, Commissioner

Dwight Stephenson, Commissioner

Kenneth W. Wright, Commissioner

Brian Yablonski, Commissioner

Attest:



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

September 29, 2009

Ms. Lauren P. Milligan
Florida Department of Environmental Protection
Florida State Clearinghouse
3900 Commonwealth Boulevard, M.S. 47
Tallahassee, Florida 32399-3000

Re: SAI# FL200907154851C

Dear Ms. Milligan:

The Department of Community Affairs (Department), pursuant to its role as the state's land planning agency, has reviewed the Big Cypress National Preserve Draft Management Plan (Plan), dated May 2009, for consistency with its statutory responsibilities under the Florida Coastal Management Program, which includes Chapter 163, Part II, and Chapter 380, Florida Statutes (F.S.). The Preserve is located in the Big Cypress Area of Critical State Concern; therefore, development must also be consistent with Section 380.055, F.S., Chapter 163, Part II, F.S., Rule 28-25, Florida Administrative Code (F.A.C.) and the local Comprehensive Plan.

Prior to Congressional approval of the Big Cypress National Preserve, the Florida Legislature enacted "The Big Cypress Conservation Act of 1973," Section 380.055, F.S. The stated purpose of these regulations is to conserve and protect the natural, environmental and economic resources and the scenic beauty of the Big Cypress Area.

Recommendations

The Department believes that the draft management plan should be strengthened through a stronger focus on protection of the Addition's less disturbed areas and on restoration of the surface hydrology.

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

Specifically, the Department supports an alternative that designates the area south of Interstate 75 as wilderness with an appropriate buffer along the interstate, and which includes specific authority to conduct fire management and invasive plant management utilizing mechanized equipment, if necessary. The primary trail system within the wilderness area south of I-75 should be limited to those trails that avoid key habitats and wetlands and minimizes fragmentation of habitat. To better complement the wilderness designation, the Department recommends that these trails be closed to recreational ORV use, but that the trails be available for access to private inholdings and utilized for fire protection and suppression, management of exotic vegetation and authorized research. Further, these trails should be carefully evaluated to ensure that grade, orientation and sufficient culverts (where appropriate) are present to maintain the normal hydrologic flow regime and preserve conditions necessary to sustain the area's wetlands.

Rule 28-25.008, F.A.C., requires that transportation facilities that would retain, divert or otherwise block surface water flows shall provide for the re-establishment of sheet flow and provide for passage of stream, strand or slough waters. The Management Plan does not contain sufficient information for the Department to confirm that ORV trails will be controlled in a manner that does not impair the resources of the Preserve beyond those impacts already acknowledged by the Plan. Consequently, the Department strongly recommends a hydrologic study of the Addition be conducted to fully evaluate the impacts to sheetflow by the continued use of ORV trails. The study should examine ORV impacts throughout the Addition and as relates to the hydrological integrity of the rest of the Preserve and all ecosystem restoration measures defined in the Final Plan accordingly.

There is no mechanism in the Plan for assessing ORV impacts on soils and wildlife, or for rescinding ORV permits or enforcing regulations. The Department recommends adding enforcement measures with appropriate penalties for non-compliance with the Preserve's rules regarding the use of ORVs. The Department urges completion of the panther behavior studies that were recommended in both the 2000 and 2007 Biological Opinions issued by U.S. Fish and Wildlife Service for the Preserve's ORV Management Plan.

The Department encourages increased coordination with restoration efforts of the South Florida Water Management District and the Florida Department of Transportation to appropriately evaluate the discharge of the nearly 60 million gallons of water from the Preserve, via the SR 29 Canal, into the estuarine waters of Chokoloskee Bay.

Resource management strategies should be consistent with the Comprehensive Everglades Restoration Plan (CERP) and evaluate the role of Addition Lands in meeting restoration goals of the South Florida ecosystems. CERP projects will significantly increase water conveyance through the Addition Lands, improving sheet flow and water quality in the Greater Everglades ecosystem, including Big Cypress National Preserve. As a result, activities that adversely affect Addition resources may jeopardize the effectiveness of the CERP improvements.

The L-28 modification project identified in the Comprehensive Everglades Restoration Plan is intended to reestablish sheetflow from the West Feeder Canal across the Big Cypress Reservation and into the Big Cypress National Preserve. However, it is not clear how the development of facilities such as trails, trailheads, access points, visitor centers and campsites that are outlined in the *Preferred Alternative* would be consistent with the Comprehensive Everglades Restoration project located within the Addition Lands. The Plan should identify areas of development that would be affected by CERP projects.

Conditional Concurrence

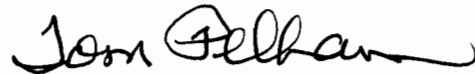
The Department will conditionally concur with the National Park Service's determination that the Draft Management Plan is consistent with applicable state law (Section 380.05, F.S., and Rule 28-25.008, F.A.C.), if and only if the following conditions are fully satisfied:

- I. Wilderness designations in the Addition approved by Congress must contain specific language that authorizes the Park Superintendent of Big Cypress National Preserve to work with other federal, state and local agencies to prevent the spread of exotic plants into and out of the Addition and to use prescribed fire as a management tool for restoring and maintaining native plant communities. In addition, any such Wilderness designation must allow the Park Superintendent to suppress and contain fires that threaten adjacent natural or built areas by any means deemed appropriate – including mechanized equipment – in coordination with other federal, state and local agencies.
- II. The final Management Plan must evaluate the potential effects that ORV trail usage and maintenance will have on the restoration benefits expected from CERP projects within and adjoining the Addition. The final plan must detail how all proposed recreational development activities, including ORV trail modifications, will impact surface hydrology as contemplated by CERP.

Ms. Lauren P. Milligan
September 29, 2009
Page 4

Thank you for the opportunity to comment on the Big Cypress National Preserve Management Plan. If additional information is needed, please contact Rebecca Jetton at 850-922-1766.

Sincerely,

A handwritten signature in black ink that reads "Tom Pelham". The signature is fluid and cursive, with the first name "Tom" and last name "Pelham" clearly distinguishable.

Thomas G. Pelham
Secretary

TP/cjd

cc: Secretary Mike Sole
Mr. Ken Haddad
Mr. Nick Wiley
Ms. Sally Mann

TO: Florida State Clearinghouse

FROM: James J. Golden, AICP, Lead Planner
Environmental Resource Regulation Department

DATE: September 17, 2009

SUBJECT: National Park Service - Big Cypress National Preserve Addition - Draft
General Management Plan/Wilderness Study/Off-Road Vehicle
Management Plan/Environmental Impact Statement – Collier County, FL
SAI#: FL200907154851C

The South Florida Water Management District (SFWMD) has the following comments regarding the above subject proposal.

- 1) The Draft General Management Plan (GMP) and Environmental Impact Statement (EIS) consider water as the “principal natural resource” for proper functioning and management of the Addition Lands. As such, hydrology and proper management of the water resources within, abutting and adjacent to the Addition Lands must be a major factor upon which all decisions with regard to implementation of any GMP should be based. While the proposed GMP/EIS cites references to existing reports, many of the cited references were prepared over 10 years ago. They do not appear to have been updated to reflect current hydrologic and land uses conditions.
- 2) The proposed GMP/EIS Alternatives do not appear to address many of the comments and concerns included in a letter from the Florida Department of Environmental Protection, dated August 27, 2001 (see Chapter 5, Pages 419 through 423, Appendix C: Consultation Letters).
- 3) In response to a request for comments from the Big Cypress National Preserve regarding the GMP/EIS Alternatives, the SFWMD sent a letter to Karen Gustin, former Superintendent of the Big Cypress National Preserve, in December, 2005. A copy of that letter is attached. The SFWMD also sent a copy of the letter to the Big Cypress Planning Team at the National Park Service Center in Denver, Colorado. The comments and concerns listed in that letter have not been addressed in the GMP/EIS. Also, a copy of the letter was not included in the Appendices of the GMP/EIS.
- 4) The proposed GMP/EIS Alternatives do not appear to address many of the comments and concerns expressed by the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida regarding impacts to cultural,

ethnographic, archeological and natural resources within and adjacent to the Addition Lands, as well as trespass issues. Copies of their comments are attached.

- 5) The proposed GMP/EIS makes note of the Big Cypress National Preserve's intention to use the guidelines established under the December, 2008, Commercial Services Plan. A copy of the Commercial Services Plan is proposed to be included as an addendum to the final GMP/EIS. However, the proposed GMP/EIS Alternatives contain elements that may be considered in direct conflict with the directives and rules for those areas of the Addition Lands that would be defined as "wilderness" under the Commercial Services Plan.
- 6) Map 12, which depicts potential limits for West Indian manatee habitat/use areas, has an error. An un-regulated channelized flow connection with direct discharge and unimpeded flow to tide is located approximately 0.5 mile west along the Tamiami Trail (US 41) from its intersection with State Road 29. This channel then runs north and northeast for approximately 2.5 miles to a box culvert under State Road 29 and connects directly to the SR29 (Barron River) Borrow Canal immediately upstream of SFWMD water control structure SR29, Number 2. The potential exists for the West Indian manatees to travel as far north as Deep Lake within the SR29 (Barron River) Borrow Canal, and also to the east within the borrow channel located along the northern side of Wagon Wheel Road (CR 837). Big Cypress National Preserve staff members have previously been advised of this hydrologic connection.
- 7) The SFWMD understands that the GMP/EIS must address many aspects of resource management, including public access, and that this plan is not a 'restoration plan' per se. However, we believe that the plan should include opportunities to manage water resources from the potential impacts of the proposed recreational activities. Additionally, any uses identified in the GMP/EIS should not be inconsistent with the Comprehensive Everglades Restoration Plan projects located near the Addition Lands.
- 8) Regarding endangered/listed species, the GMP/EIS does not indicate if the amended Biological Opinion includes the Addition Lands and does not indicate if there has been any official determination by the U.S. Fish and Wildlife Service regarding listed species. Although the GMP/EIS states that coordination with both State and Federal wildlife agencies has been initiated, there are other statements, such as 'the species has been observed' but 'no real data on its use of the Addition exists'. This indicates that additional precautions may be necessary. Research and visitor education should be a priority on the lesser known species, such as the Indigo snake. For example,

although this species is typically associated with uplands, they do forage in wetlands.

- 9) The discussion concerning impairment of the Addition Lands resources in relation to the development of private lands northwest of the Addition (page 249 of the Cumulative Impact Analysis) should be revised to clarify that the Town of Ave Maria and the University are developed areas, as the lands have been cleared and development has commenced. The text also implies that the Town of Big Cypress has been approved. However, approval has not yet occurred. The Town of Big Cypress should only be considered as a potential future development at this stage of the Cumulative Impact Analysis.
- 10) Currently, the western boundary of and a major portion of the western Addition Lands included in the GMP/EIS are located within the ± 300 square-mile SR 29 drainage basin. The SR29 (Barron River) Borrow Canal is also located in this area. This canal is approximately 39 miles in total length, beginning at or very near the Town of Immokalee at its northern terminus, then paralleling SR29 southward to its southern terminus at Everglades City, where it discharges into Chokoloskee Bay and Everglades National Park. The southern 27 miles of the canal are located entirely or partially within or adjacent to the western boundary of the western Addition Lands. The northern 13 miles of the canal, outside of the boundary of the Addition Lands, receive inflows of stormwater runoff from the Town of Immokalee, rural improved grazing pasture, and agricultural lands located upon approximately 200 square miles of the northern portion of the SR 29 drainage basin. This canal also receives surface and ground water inflows from approximately 100 square miles of the western Addition Lands, not including additional surface and ground water inflow from Big Cypress National Preserve lands located to the east and abutting the eastern boundary of the western Addition Lands.

Considering that the majority of the 27 mile-long SR29 (Barron River) Canal is located entirely or partially within or abutting the western Addition Lands, each GMP/EIS Alternative should address the potential impact of changes (water quality and water quantity) to the discharge characteristics of the canal into Chokoloskee Bay and the waters of Everglades National Park. The alternative chosen should not further degrade the water resources and ecosystem within and adjacent to the Addition Lands.

- 11) The GMP/EIS should address any potential impact on the shallow potable water supply well field for Everglades City from activities on the Addition Lands. The well field is located in Copeland, approximately 0.5 miles west of the western boundary of the Preserve.

Memorandum

SAI#: FL200907154851C

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- 12) The Park Service has stated that the Wilderness designation boundary for the Addition Lands along the SR29 Corridor would be located 50 feet east of the eastern top of bank for the SR29 (Barron River) Canal. Please be advised that this canal falls under multiple jurisdictions, including the Park Service, the Florida Department of Transportation, the SFWMD, and Collier County. The SFWMD recommends that a Memorandum of Agreement (MOA) be negotiated between the above named parties with regard to operation and maintenance of the canal, prior to finalizing any GMP/EIS Alternative, and that the MOA be included in the final GMP/EIS.
- 13) The final GMP/EIS should address the following concerning potential impacts to SFWMD planned/proposed projects, facilities, and infrastructure within, abutting or upon lands proposed as "Wilderness" by the Park Service:
 - Need to determine how the "wilderness" designation will impact the review and permitting of SFWMD planned and proposed projects, facilities, and infrastructure located within, abutting, or upon adjacent lands
 - Need to address any potential legal challenges that may result from the designation to planned and proposed projects, facilities, and infrastructure located within, abutting, or upon adjacent lands designated as "wilderness" from non-governmental and private entities, as well as responsibilities of the Park Service in the challenges
- 14) SFWMD is attempting to restore, to the extent possible, the historical hydrological and hydraulic connections/conditions to those areas that were disconnected by the construction of SR29. The Park Service should coordinate with the SFWMD to ensure proposed activities by both agencies are compatible.



BIG CYPRESS BASIN
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

6089 Janes Lane, Naples, FL 34109
(239) 597-1505 • Suncom 721-7920 • Fax (239) 597-4987 • www.sfwmd.gov/organ_2_bcb.html

GOV 04-14

December 30, 2005

Ms. Karen Gustin, Superintendent
Big Cypress National Preserve
33100 Tamiami Trail East
Ochopee, FL 34141-1000

Dear Ms. Gustin:

**Subject: Comments Upon The Proposed General Management Plan Alternatives
For The Addition Lands Portion Of The Big Cypress National Preserve**

In response to the request for comments on the proposed General Management Plan (GMP) Alternatives for the Addition Lands, Big Cypress Basin / South Florida Water Management District (BCB/SFWMD) staff has reviewed the alternatives for the above subject project. The proposed GMP Alternatives indicate that the project involves the evaluation of potential recreational activities, facilities and access to and upon the Addition Lands.

After review of the proposed Alternatives, the BCB/SFWMD offers the following comments:

General Alternative-Related Comments

- 1) Hydrology is a critical and primary element that should be considered when developing and evaluating the management plans for those lands within the Addition Lands. The BCNP has an aggressive hydrologic monitoring and assessment program. The evaluation of the GMP alternatives for the Addition Lands should include an analysis of the impacts, on the overall hydrology (surface and groundwater flow patterns) of the existing preserve and the addition lands for selection and implementation of a successful GMP.
- 2) The SR 29 (Barron River) Borrow Canal is the predominant drainage feature within an approximate 290 square mile drainage basin that extends approximately 30 miles northward from the north boundary of the Addition Lands. Hydrologic-hydraulic assessment of the surface and groundwater flow characteristics of the Barron River canal basin have been performed by several SFWMD studies (BCB Watershed

BIG CYPRESS BASIN GOVERNING BOARD

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Jon C. Staiger, Ph.D. - Naples

Clarence S. Tears, Jr.

Management Plan/ South Florida Water Management Model etc). The information available from these studies could be incorporated in the development of the management plan of the BCNP Addition Lands.

- 3) The Big Cypress Basin of the South Florida Water Management District (BCB) presently operates and maintains the canal and ten water control structures in the segment of Barron River Canal between I-75 and US 41. The BCB 10 Year Capital Improvement Plan includes modification to these water control facilities to enhance their water management features. It is strongly suggested that BCNP work directly with BCB staff located at BCB/SFWMD office at 6089 Janes Lane, Naples, Florida in the continuing development and implementation of the GMP Alternatives for the Addition Lands.
- 4) Multiple agencies are currently working at this time to restore the historic hydrologic regime to those lands within the SR 29 Drainage Basin, which include the Addition Lands. One active plan under development is the Southwest Florida Feasibility Study being prepared by the U.S. Army Corps of Engineers in cooperation with several state and local agencies. BCNP should also seek out and review projects being proposed by other Governmental Agencies within the SR 29 Drainage Basin.
- 5) All the management plan alternatives for the Addition Lands assume that the SR 29 (Barron River) Borrow Canal is under total ownership of the U.S. Government and will be managed under the jurisdiction on the National Park Service. This assumption is potentially in error as the first six (6) miles of the SR 29 Borrow Canal lies completely within the Right of Way for State Road 29 on lands owned solely by the State of Florida, Department of Transportation (FDOT) and maintained and operated by the (BCB/SFWMD) under agreement with FDOT as recorded in the Official Records of Collier County, Florida. Additionally, other portions of the SR 29 Canal lie only partly within the boundary of the Addition Lands.
- 6) It is apparent BCNP has prepared the proposed Addition Lands management plan alternatives without benefit of a boundary survey to determine at minimum the location of the western boundary of the Addition Lands and specific features and ownership of these features such as drainage canals, water control structures and roadways located adjacent to, entirely or partially within the boundaries of the Addition Lands. While a simple property description is legal and sufficient for the transfer of real property, at minimum a boundary survey of the western boundary of the Addition Lands that includes the location of the specific features noted above and referenced to the Addition Lands boundary must be performed to determine the boundary and actual ownership of real property including the rights that are conveyed with such ownership

for development and implementation of any of the Addition Lands Management Plan Alternatives..

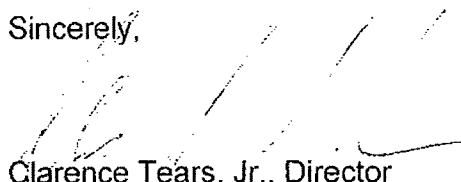
- 7) An assessment of liabilities which may be incurred by other Federal, State and Local Governmental Agencies with management responsibilities and duties upon lands and facilities abutting, adjacent or possibly within the Addition Lands does not appear to have been performed during the development of the Addition Lands management plan alternatives
- 8) A Cultural Resource Assessment does not appear to have been performed upon the Addition Lands to identify historical and / or archeological sites that may exist and evaluate potential impacts from implementation of the GMP Alternatives.
- 9) The proposed Addition Lands Management Plan Alternatives have not identified nor provide any means by which BCNP intends to work with other Federal, State and Local governmental agencies and entities to address potential impacts from any of the GMP Alternatives upon lands within the SR 29 Canal Drainage Basin managed by these other agencies and entities.
- 10) To ensure that the optimal management plan for the Addition Lands is chosen. Impacts to or from all lands located within the SR 29 Canal Drainage Basin must be evaluated prior to and included in the development of any GMP or Alternatives for the Addition Lands. Documentation of this review must be referenced in the Addition Lands Management Plan Alternatives and made available for review to ensure that sufficient evaluation of potential impacts has been performed.
- 11) Coordination for development for Addition Lands Management Plan Alternatives should, at a minimum, include consultation with local representatives for adjacent property owners and managers. This is critical as lands adjacent to and abutting this project area include; Fakahatchee Strand State Preserve, Florida Panther National Wildlife Refuge, Everglades National Park, South Florida Water Management District, Big Cypress Basin, Florida Department of Transportation and Collier County.
- 12) As the headwaters of the SR 29 Canal begin at the town of Immokalee with direct stormwater discharge to the canal then passing through and receiving additional direct discharge to the canal from large agricultural areas with the final discharge of the SR 29 (Barron River) Borrow Canal being to estuarine system and Chokoloskee Bay via

the Barron River of which portions lie within the boundaries of Everglades National Park. Water quality must be addressed in all management plan alternatives and the evaluation of said alternatives.

- 13) The existence of potential ground and surface water pollution from creosote and other pollutants resulting from the operation of the now defunct Jones Sawmill located at Jerome has been identified within, abutting and adjacent to the Addition Lands. An assessment of impacts from these potential pollutant sources should be performed and addressed in the development of the management plan alternatives.
- 14) The well field for potable water supply for Everglades City lies adjacent to the Addition Lands. Potential impacts to this utility must be included in all proposed management plan alternatives for the Addition Lands.
- 15) As the US-COE, SFWMD, USFWS, FFWCC and FDEP are the responsible entities for permitting of water use, surface water management, water quality issues within the SR 29 Drainage Basin, BCNP must coordinate development of management plan alternatives with these agencies to mitigate potential negative impacts to their legislatively mandated responsibilities from implementation of any of the currently proposed management plan alternatives. Local representatives of these Agencies should be included in this coordination effort.
- 16) A final suggestion is that BCNP delay the development of the current GMP Alternatives for the Addition Lands by 90 days to identify and invite local representatives of the numerous Governmental Agencies and Entities to meet with BCNP staff and discuss the noted issues before proceeding with further development of GMP Alternatives for the Addition Lands.

Should any of the above require additional clarification, please give me a call at (239) 597-1505.

Sincerely,

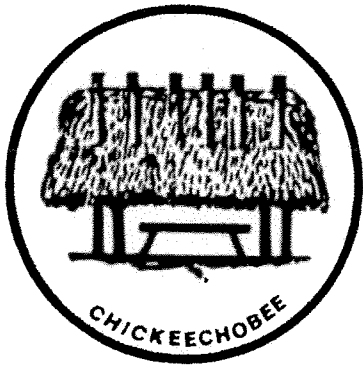


Clarence Tears, Jr., Director
Big Cypress Basin
South Florida Water Management District

Ms. Karen Gustin
December 30, 2005
Page 5

/with

c: Big Cypress Planning Team
National Park Service
Denver Service Center
Big Cypress Planning Team
12795 West Alameda Parkway
PO Box 25287
Denver, Colorado 80225-9901



Miccosukee Tribe of Indians of Florida

Business Council Members

Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
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Andrew Bert Sr., Secretary
William M. Osceola, Lawmaker

January 6, 2006

National Park Service
Denver Service Center
Big Cypress Planning Team
12795 West Alameda Parkway
PO Box 25287
Denver, CO 80225-9901

COPY

RE: Addition Lands General Management Plan

Dear Sirs:

The Miccosukee Tribe of Indians of Florida has reviewed the General Management Plan ("GMP") for the Addition Lands of the Big Cypress National Preserve. Below are our comments on the GMP.

The Tribe prefers that Alternative A, the No Action Alternative, be selected provided that hunting is allowed. Absolutely no development, parking lots, visitor centers, boardwalks, roads, etc., be constructed in this area. The Tribe is adamantly opposed to any and all development. It was never the intent of Congress to have interpretative activities, visitor services, or the creation of roads, visitor centers, etc. The Park Service needs to read the Congressional Record on when the Enabling Act for the Preserve was passed to understand the intent of Congress for the Preserve. It was the intent of Congress that the traditional uses of the Preserve be continued, i.e. primitive use, and not developed for the casual visitor. Any development would only create habitat loss for endangered species, and the potential for wildlife/human interaction. This area is also prime Florida panther habitat. Development would only create more problems between humans and panthers. Once again, we need to remind you that Congress passed the Enabling Act to protect the watershed, protect the unique flora and fauna, and freeze the development of this area so it would stay more like it was in 1971 than be developed 34 years later.

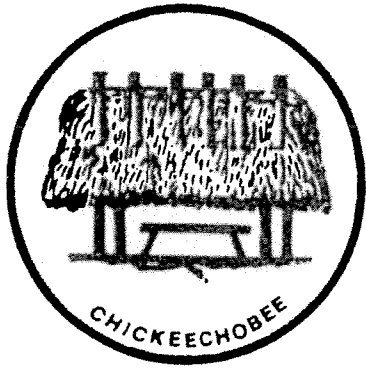
Thank you for consulting with the Miccosukee Tribe. Please contact Mr. Steve Terry of my staff at the below number if you require further information .

Sincerely,

COPY

Billy Cypress
Tribal Chairman

PC: Honorable Gale Norton, Secretary Department of Interior
Fran Mainella, Director National Park Service
Patricia Hooks, SE Regional Director National Park Service



Miccosukee Tribe of Indians of Florida

Business Council Members

Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
William M. Osceola, Lawmaker

August 13, 2008

Acting Superintendent Pedro Ramos
Big Cypress National Preserve
33100 Tamiami Trail E
Ochopee, FL 34141-1000

Dear Superintendent Ramos:

The Miccosukee Tribe of Indians of Florida received your letter concerning the general management plan for the Addition Lands and wildlife crossing construction. We have reviewed the letter and have the following comments. We will first discuss the GMP for the Addition Lands.

We are adamantly opposed to wilderness designation as it will shut people out and concentrate use in other areas. Everglades National Park was dedicated to Seminole People to protect their homeland. Please see the attachment. What happened in reality was our people were thrown out of the Park as it was designated as wilderness. Since the Enabling Act of the Preserve, the situation in both Tribes has changed in some degrees. The Preserve only protects the rights of Tribal Members. A wilderness designation would prevent a Tribal Member from taking their non-Tribal spouse into the area. Plus, the Tribe's own non-Tribal Staff could not enter into the area to do wildlife observations, medicinal plant inventories, exotic species monitoring, or any of their other activities that we require of them.

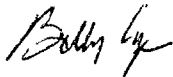
That being said, we are also opposed to any commercial development in the Addition Lands. We have previously stated this to the Denver Service Center and will re-state this once again. Has there been any economic analysis done to determine the feasibility of any commercial development. The Tribe already has commercial development on our Alligator Alley Reservation, located just a few miles to the east of the Addition Lands. The Tribe prefers that Alternative A, the No Action Alternative, be selected provided that hunting is allowed. Absolutely no development, parking lots, visitor centers, boardwalks, roads, etc., be constructed in this area. The Tribe is adamantly opposed to any and all development. It was never the intent of Congress to have interpretative activities, visitor services, or the creation of roads, visitor centers, etc. The Park Service needs to read the Congressional Record on when the Enabling Act for the Preserve was passed to understand the intent of Congress for the Preserve. It was the intent of Congress that the traditional uses of the Preserve be continued, i.e. primitive use, and not developed for the casual visitor. Any development would only create habitat loss for

endangered species, and the potential for wildlife/human interaction. This area is also prime Florida panther habitat. Development would only create more problems between humans and panthers. Once again, we need to remind you that Congress passed the Enabling Act to protect the watershed, protect the unique flora and fauna, and freeze the development of this area so it would stay more like it was in 1971 than be developed 34 years later.

Our comments on Wildlife Crossings are as follows. The Tribe is not opposed to Wildlife Crossings, per se. We are opposed to any visual impact, such as the Gulag Fencing on SR 29. We want to know if the Florida Department of Transportation, the Defenders of Wildlife, and the U.S. Fish and Wildlife Service value the lives of imported Texas cougars over the lives of human beings? Before any future Wildlife Crossings are planned for, much less constructed, guardrails on Tamiami Trail between 30 mile bend and 40 mile bend need to be installed to prevent the loss of human life in this area. We know of 14 people who have died in the canal over the last 15 years, from simple accidents that a guardrail would have prevented. It is incredulous to the Tribe that the Preserve would be entertaining wildlife crossings when you are planning to improve Loop Road so that more vehicles and faster speeds can be achieved. There is an abundance of wildlife on Loop Road that is not being protected. The Loop Road Improvement Project should be abandoned so that wildlife will be protected there before any Wildlife Crossings are constructed on Tamiami Trail.

Thank you for consulting with the Miccosukee Tribe. We appreciate your informing the Tribe that Superintendent Gustin has departed for Olympic National Park. The Tribe is looking forward to better cooperation with you as the Acting Superintendent. In the spirit of this future cooperation, the Tribe's staff will be available to meet with you. We do ask that you respond to our previous request on opening airboat trails in the Stairsteps Unit, Zone 4 for cultural reasons. Please contact either Mr. Fred Dayhoff or Mr. Steve Terry, if you have any questions.

Sincerely,



Billy Cypress
Tribal Chairman

PC: Steve Terry, Land Resources Manager
Fred Dayhoff, Tribal Representative



Southwest Florida Regional Planning Council

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**DEP Office of
Intergov't Programs**

August 10, 2009

Ms. Lauren P. Milligan
Department of Environmental Protection
Florida State Clearinghouse
3900 Commonwealth Boulevard, M.S. 47
Tallahassee, Florida 32399-3000

**RE: United States Department of the Interior
National Park Service
Big Cypress National Preserve
33100 Tamiami Trail E
Ochopee, Florida 34141-1000**

**SAI#: FL200907154851C
IC&R 2009-034**

Dear Ms. Milligan:

The staff of the Southwest Florida Regional Planning Council (SWFRPC) reviews various proposals, including Notifications of Intent, Preapplications, Permit Applications, Environmental Impact Statements and other activities that request determinations for compliance with regional Goals, Strategies, and Actions, as determined by the Strategic Regional Policy Plan, July 4, 2002. The staff reviews such items in accordance with the Florida Intergovernmental Coordination and Review Process (Chapter 29I-5, F.A.C.), and adopted regional clearinghouse procedures.

These designations determine Council staff procedure in regards to the reviewed project. The four designations are:

Less Than Regionally Significant and Consistent no further review of the project can be expected from Council.

Less Than Regionally Significant and Inconsistent Council does not find the project of regional importance, but will note certain concerns as part of its continued monitoring for cumulative impact within the noted goal area.

Regionally Significant and Consistent project is of regional importance, and appears to be consistent with Regional goals, objectives, and policies.

Regionally Significant and Inconsistent project is of regional importance and does not appear to be consistent with Regional goals, objectives, and policies. Council will oppose the project as submitted, but is willing to participate in any efforts to modify the project to mitigate the concerns.

The above referenced document has been reviewed by this office and based on the information contained in the document, and on local knowledge, the SWFRPC has the following comments about this request:

This review is a request from the National Park Service concerning a General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement for the Big Cypress National Preserve Addition. Specifically, the request is to provide comments and a consistency finding dealing with the submitted plan, maps and narrative text that describes the current and potential actions related to the future management of the Big Cypress National Preserve Addition.

This *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* presents four alternatives, including the NPS's preferred alternative, which provides for the future management of the Addition. The alternatives are based on the Preserve's purpose, significance, and special mandates, present different ways to manage resources and visitor use and improve facilities and infrastructure in the Addition. The four alternatives include the "no action" alternative (Alternative A), which presented a range of off-road vehicle opportunities, identified lands being considered for wilderness, and spoke to visitor facilities and experiences. In addition, the statement identified three "action" alternatives, including Alternative B, the preferred alternative, and Alternative F. Additional alternatives (Alternatives C, D, and E) and their actions were considered in the planning effort. However, these alternative and actions were dismissed from further detailed analysis by the NPS. These dismissed alternatives and actions were presented, along with the rationale for dismissing them in the "Alternatives, Including the Preferred Alternative" portion of the document. The preferred alternative identified in the submittal was developed from comments received throughout the planning process.

A summary of the proposed alternatives addressed in the *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* as follows:

- The **No-Action Alternative** describes a continuation of existing management and trends in the Addition areas. The Addition would remain closed to public recreational motorized vehicle use and motorized hunting would not be allowed. No wilderness areas would be proposed for specific designation.

- The **Alternative B** action would enable visitor participation in a wide variety of outdoor recreational experiences in the preserve. According to the submittal, about 48,919 acres of land would be proposed for a wilderness designation and up to 140 miles of sustainable ORV trails would be designated as part of the conceptual primary ORV trail network.
- The **Preferred Alternative** would provide for diverse front and back country recreational opportunities, enhance day use and interpretive opportunities along road corridors, and enhance recreational opportunities with new facilities and services. About 85,862 acres of land would be proposed for wilderness designations and up to 140 miles of sustainable ORV trails would be designated and phased in as part of the conceptual primary ORV trail network.
- The **Alternative F** would emphasize resource preservation, restoration, and research, while providing recreational opportunities with limited facilities and support. This alternative would maximize the amount of land proposed for a wilderness designation, about 111,601 acres. No public ORV use would be available under this alternative.

The Big Cypress National Preserve was authorized by an act of congress on October 11, 1974 (Public Law 93-440) and had a surrounding boundary that included 582,000 acres of land. The act was amended on April 29, 1988, when Congress passed the Big Cypress National Preserve Addition Act (Public Law 100-301). The amendment was known as the Addition Act because it expanded the size of the original preserve by about 147,000 acres. Since the enlargement of the preserve, the expansion area has been referred to as the Addition.

In 1991, the National Park Service (NPS) finalized the *General Management Plan* for the Preserve. That plan addressed only the original Preserve and contained no guidance for the Addition area.

The NPS began administration of the Addition in 1996. Since that time, the Addition has been closed to public recreational motorized use and hunting, with the only permitted public uses being pedestrian and bicycling access and camping.

To date, no comprehensive planning effort has been conducted for the Addition. A comprehensive resource based plan is obviously needed in order to more clearly define the Addition's resource conditions and identify the experiences that visitors can have in the Addition. The subject plan being provided by in the Preferred Alternative is intended to provide a much needed framework for the NPS managers to use when making decisions about how to best protect the Addition's natural resources, identify appropriate areas for visitor access facilities, and determine how the NPS will manage its operations in the Addition area.

Based on the information provided in the submittal, Council staff finds that this *General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental*

Impact Statement due to its magnitude and impacts on regional resources is Regionally Significant and Inconsistent with the Strategic Regional Policy Plan given that the alternatives analyses are incorrect due to the fact that it overestimates the benefits to the public and underestimates the adverse effects to the environment of the NPS Preferred Alternative. At the same time, it underestimates the benefits of Alternative F to the natural environment.

The following summary provides the Council staff review of the presented alternatives with both beneficial and adverse effects identified:

- **Alternative A:** No-Action Alternative (Describing the continuation of existing management and trends)

The no-action alternative describes a continuation of existing management and trends in the Addition and provides a baseline for comparison in evaluating the changes and impacts of the other alternatives. Under this alternative, the NPS would continue to manage the Addition as it is at this time. The Addition would remain closed to public recreational motorized use and motorized hunting, and only minor new construction would be authorized to accommodate visitor access, primarily for hiking and biking. Existing operations and visitor facilities would remain in place. Natural ecological processes would be allowed to occur, and restoration programs would be initiated where necessary. No wilderness would be proposed as a designation.

The key impacts of continuing existing management conditions and trends would include minor to moderate adverse localized impacts on surface water flow, moderate long-term adverse impacts on visitor use and experience, and minor to moderate impacts on NPS operations and management. No wilderness area would be proposed for designation.

The NPS staffing levels under the no-action alternative would continue to be the equivalent of 77 full-time staff members. This includes 6 employees in the superintendent's office, 10 in administration, 20 in maintenance, 12 in interpretation, 14 in resource management, and 15 in visitor and resource protection. An additional 21 employees work for the preserve's fire program, but these fulltime-equivalent employees are not accounted for in the staffing numbers because they would remain the same across all alternatives. Volunteers and partnerships would continue to be key contributors to NPS operations. The total costs associated with this alternative (annual operating costs) would be \$6.5 million.

- **Alternative B:** Expanded Visitor Access and Participation Alternative (Action would enable visitor participation in a wide variety of outdoor recreational experiences in the preserve.)

The concept for management of the Addition under this alternative would be to enable visitor participation in a wide variety of outdoor recreational experiences. It would maximize motorized access, provide the least amount of proposed wilderness, and develop limited new hiking-only trails. New visitor and operations facilities along the I-75 corridor would also be provided.

The key impacts of the implementation Alternative B would include moderate, long-term, adverse and widespread impacts on surface water flow and water quality, including interference with sheet flow dynamics of the natural Big Cypress Swamp landscape; long-term, moderate to severe, adverse and potentially Addition-wide impacts on the introduction of know and new exotic / non-native plants and animals; long-term moderate to severe, adverse impacts on (likely to adversely affect) the Florida panther; long-term moderate to severe, adverse impacts on (likely to adversely affect) the Red-cockaded woodpecker; long-term minor to moderate, beneficial and adverse impacts on minor game species; long-term, moderate, beneficial and adverse Addition-wide impacts on wilderness resources and values; long-term moderate, beneficial and adverse impacts on visitor use and experience; and long-term, moderate, beneficial and adverse impacts on NPS operations and management. In addition, there can be expected to be localized terrain alteration and exposure of marl and sandy soils thereby creating rutted channels for more rapid water flow; significant long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Florida Black Bear with the introduction of human waste, trash and other debris; long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Wood Stork and other wading bird species; long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Big Cypress Fox Squirrel; increased negative human-wildlife interactions resulting in management and complaint issues; and a potential for an increase in inappropriate public land use for dumping; marijuana grow operations, and resource harvesting of rare and endangered plant species.

Approximately, 48,919 acres of land would be proposed for wilderness area designation.

The NPS staffing level needed to implement Alternative B would be the equivalent of 93 full-time staff members (16 additional fulltime-equivalent employees or 17 positions, 15 permanent full-time employees and 2 half time temporary / seasonal employees). These 16 additional include 2 permanent interpreters, 2 seasonal interpreters, 4 maintenance workers, 5 law enforcement rangers, 2 visitors use assistants, 1 off-road vehicle (ORV) program manager, and 1 biological science technician. Volunteers and partnerships would continue to be key contributors to NPS operations. One-time capital costs of Alternative B, including projects that are planned for the near future or are underway, new construction, and no facility costs such as major resource plans and projects, are estimated at \$6.7 million. Annual operating Costs under this alternative would be \$7.9 million.

- **Preferred Alternative:** Expanded Visitor Participation and ORV Access Alternative (Action would provide diverse front and back country recreational opportunities.)

The Preferred Alternative would provide diverse front country and back country recreational opportunities, enhance day use and interpretive opportunities along road corridors, and enhance recreational opportunities with new facilities and services. This alternative would maximize ORV access, provide a moderate amount of wilderness, provide non-motorized trail opportunities and new camping opportunities, and develop a partnership approach to visitor orientation. New visitor and operations facilities along the I-75 corridor would also be provided.

Key impacts of implementing the preferred alternative would include moderate, long-term, adverse, and widespread impacts on surface water flow and water quality including interference with sheet flow dynamics of the natural Big Cypress Swamp landscape; long-term, moderate to severe, adverse and potentially Addition-wide impacts on the introduction of known and new exotic / non-native plants and animals; long-term, moderate to severe, adverse impacts (likely to adversely affect) on the Florida Panther; long-term, moderate to severe, adverse impacts (likely to adversely affect) on the Red-cockaded Woodpecker population; long-term, minor to moderate, adverse impacts on major game species; long-term, moderate, beneficial and adverse Addition-wide impacts on wilderness resources and values; long-term, moderate, beneficial and adverse impacts on NPS operations and management. In addition, there can be expected to be localized terrain alteration and exposure of marl and sandy soils creating rutted channels for more rapid water flow; significant long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Florida Black Bear; introduction of human waste, trash and other debris; long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Wood Stork and other wading bird species; long-term, moderate to severe, adverse impacts to (likely to adversely affect) the Big Cypress Fox Squirrel; increased negative human-wildlife interactions resulting in management and complain issues; and a potential for an increase in inappropriate public land use for dumping; marijuana grow operations; and resource harvesting of rare and endangered plants.

This alternative would increase the probability of unintentional and intentional (arson) wildfires with subsequent resources loses and endangerment and lose of vegetation, wildlife and human life.

Approximately 85,862 acres of land (65% of the Addition) would be proposed for wilderness area designation.

The NPS staffing level needed to implement the preferred alternative would be the equivalent of 93 full-time staff members (16 additional full- time equivalent employees or 17 positions) – 15 permanent full-time employees and 2 half-time

temporary / seasonal employees. These 16 additional employees include 2 permanent interpreters, 2 seasonal interpreters, 4 maintenance workers, 5 law enforcement rangers, 2 visitor use assistants, 1 ORV program manager, and 1 biological science technician. Volunteers and partnerships would continue to be key contributors to NPS operations. One-time capital costs of the Preferred Alternative, including projects that are planned for the near future or are underway, new construction, and no facility cost such as major resource plans and projects, are estimated at \$6.7 million. Annual operating cost under this alternative would be \$7.9 million.

- **Alternative F:** Resource Preservation Alternative (Action would emphasize preservation, restoration, and research.)

Alternative F would emphasize resource preservation, restoration, and research while providing recreational opportunities with limited facilities and support. This alternative would provide the maximum amount of wilderness, no ORV use, and minimal new facilities for visitor contact along the I-75 corridor.

The key impacts of implementing the Alternative F would include moderate, long-term, beneficial, and widespread impacts on surface water flow and water quality including maintenance of sheet flow dynamics of the natural Big Cypress Swamp landscape; long-term, moderate, beneficial and potentially Addition-wide impacts on the reduction of the introduction of known and new exotic / non-native plants and animals; long-term, moderate to significant, beneficial impacts on (likely to positively affect) the Florida Panther; long-term, moderate to significant, beneficial impacts on (likely to positively affect) the Red-cockaded Woodpecker population; long-term, minor to moderate, adverse impacts on major game species; long-term, moderate, beneficial and adverse Addition-wide impacts on wilderness resources and values; long-term, moderate, beneficial and adverse impacts on visitor use and experience; and long-term, moderate beneficial and adverse impacts on NPS operations and management.

In addition, this alternative will reduce localized terrain alteration and exposure of marl and sandy soils creating rutted channels for more rapid water flow, reduce significant long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Florida Black Bear; reduce introduction of human waste, trash and other debris; reduce long-term, moderate to severe adverse impacts on (likely to adversely affect) the Wood Stork and other wading birds species; reduce long-term, moderate to severe, adverse impacts on (likely to adversely affect) the Big Cypress Fox Squirrel; reduce increased negative human-wildlife interactions resulting in management and complaint issues; and reduce the potential for an increase in inappropriate public land use for dumping; marijuana grow operations; and resource harvesting of rare and endangered plants.

Approximately 111,601 acres of land (76% of the Addition) would be proposed for wilderness area designation.

NPS staffing level needed to implement Alternative F would be the equivalent of 7 full-time staff members (10 additional positions). These 10 additional positions (10 full-time employees) would include 2 permanent interpreters, 2 maintenance workers, 5 law enforcement rangers, and 1 visitor use assistant. Volunteers and partnerships would continue to be key contributors to NPS operations. One-time capital costs of Alternative F would projects that are planned for the near future or are underway, new construction, and facility costs such as major resource plans and projects, are estimate at \$4.9 million. Annual operating costs under this alternative would be \$7.5 million.

Based on the above analysis, Council staff finds that Alternative F best supports the regional Goals, Strategies, and Actions found in the Strategic Regional Policy Plan, while providing more wilderness area with fewer and less long-term, adverse impacts to the region's hydrology, plants and wildlife. In addition, Alternative F provides the benefits identified in the analysis at a lower capital and operational cost level.

As currently presented, Council staff finds that the Preferred Alternative as presented in the submittal will not provide acceptable benefit levels to the region, as described in the Council staff analysis and will not enhance the health, safety and welfare of the region's habitats and population and is therefore not consistent with the following Goals, Strategies, and Actions of the Strategic Regional Policy Plan's Natural Resources Element:

Goal 4: Livable communities designed to improve quality of life and provide for the sustainability of our natural resources.

Strategy: Promote through the Council's review roles design and development principles that protect the Region's natural resources and provide for an improved quality of life.

Action 6: Working in cooperation with agencies and local governments insure that new public facilities, facility expansions and additions avoid designated natural resource protection areas.

Action 8: Working with all levels of government within Southwest Florida actively plan for lands that have been acquired for natural resource purposes to be maintained and managed to preserve their environmental integrity.

Goal 5: Effective resource management is maintained across the borders of sovereign public agencies.

Strategy: All plans concerning the same resource shall have as objectives the same results.

Action 4: The SWFRPC will promote state, regional and local agencies to consider lands identified as priority one habitat south of the Caloosahatchee River and areas formally designate as critical habitat for the Florida Panther to be incorporated in the agency's natural resource management programs and provide intergovernmental coordination for the implementation of management practices that, based on existing data, would be expected to result in maintaining habitat conditions for the panther.

Action 7: The SWFRPC will continue to coordinate with the entities of the South Florida Ecosystem Restoration Task Force Working Group in their restoration efforts.

Council staff finds that Alternative F is more protective of the natural resources of the region, including listed species, water quality and hydrology, and the public use functions that the Big Cypress National Preserve was originally established. Alternative F has the most area designated for wilderness area and appears to have the lowest carbon footprint and least green-house gas production both for the management plan and the amount of recreational use dependent on internal combustion engines.

Council staff recommends that the Preferred Alternative and subsequently the Environmental Impact Statement should be rewritten with Alternative F as the Preferred Alternative because it will be the most cost effective (least costly), will minimize negative climate change factors, and will best protect the overall Big Cypress National Preserve, while allowing public uses that are appropriate to a significant national resource of this value, magnitude, and vulnerable nature.

Council also staff finds that no further review of the project will be necessary from Council unless unforeseen circumstances occur that change the overall request as presented.

Should you or any other party request that this finding to be reconsidered, please contact Nichole L. Gwinnett, IC&R Coordinator.

Sincerely,

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL



Kenneth C. Heatherington
Executive Director

KCH/DEC



FLORIDA DEPARTMENT OF STATE
Kurt S. Browning
Secretary of State
DIVISION OF HISTORICAL RESOURCES

Ms. Lauren Milligan
Director, Florida State Clearinghouse
Florida Dept. of Environmental Protection - #3700
3900 Commonwealth Boulevard, Mail Station 47
Tallahassee, Florida 32399-3000

September 18, 2009

Re: DHR Project File No: 2009-4470B / Received by DHR: July 22, 2009
SAI #: FL2009 - 4851C
*Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management
Plan/Environmental Impact Statement*
Big Cypress National Preserve Addition - Collier County

Dear Ms. Milligan:

Our office reviewed the referenced documents in accordance with Section 106 of the National Historic Preservation Act of 1966 as amended and 36 CFR Part 800: Protection of Historic Properties; and the National Environmental Policy Act of 1969, as amended. This review is focused to the possible impact to historic properties listed, or eligible for listing, in the National Register of Historic Places in the Big Cypress National Preserve Addition (Addition).

We have reviewed the sections of the DGMP/WS/ORVMP/EIS that deal with cultural and historical resources, and it is our opinion that such resources have been adequately addressed in this document. We concur with the choice of preferred alternative, and agree that it has the potential to have adverse effects on cultural resources. Therefore, this office concurs that cultural resource (archaeological and other) surveys/investigations will need to be conducted in advance of ground disturbing activities, or other development activities that could directly or indirectly affect cultural resources that are listed or eligible for listing in the National Register. The results of such surveys must be forwarded to this office for review and comment. We look forward to continued coordination and consultation in the development of the Addition.

If you have any questions concerning our comments, please contact me by electronic mail at lkammerer@dos.state.fl.us, or by telephone at 850-245-6333 or 800-847-7278.

Sincerely,

Laura A. Kammerer
Deputy State Historic Preservation Officer
For Review and Compliance

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DEP Office of
Intergov't Programs

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

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