

Notes from the Quarterly Meeting of the Everglades Technical Oversight Committee (TOC)

October 27, 2015

South Florida Water Management District
3301 Gun Club Road, West Palm Beach, FL 33406

TOC Representatives:

Juli LaRock, TOC Chair, SFWMD

John Barkett, Special Master (*by phone*)

Lori Miller, Refuge

Frank Powell, FDEP

Mark Shafer, USACE

Donatto Surratt, ENP

Note: *This meeting was recorded by a court reporter and copies are available for purchase. For more information, contact Florida Court Reporting (561-689-0999). Handouts and presentations are available on the TOC website (www.sfwmd.gov/toc). A video of the meeting is available online at <http://sfwmd.igm2.com/Citizens/Media.aspx>.*

10:00 a.m. **1. TOC Opening Business** – Juli LaRock, SFWMD

1A. Welcome, Announcements, and Identification of Phone Participants

Juli LaRock called the meeting to order and welcomed attendees. Phone participants introduced themselves.

1B. Agenda Modifications and Documents Available on the TOC Website

Juli LaRock reviewed the agenda and the list of files recently posted on the TOC website or sent by email. There were no requests for changes to the agenda.

1C. Approval of Meeting Summary for July 28, 2015

Donatto Surratt requested several edits to the draft summary for the July 28, 2015 TOC meeting. The TOC approved finalizing the draft meeting summary with these changes.

Associated Online Documents:

- [Final Agenda for October 27, 2015](#)
- [Final Meeting Summary for July 28, 2015](#)

10:10 a.m. **2. Second Quarter 2015 Settlement Agreement Report** – Stuart Van Horn, SFWMD

Stuart Van Horn began the presentation by introducing Jon Madden (SFWMD) and noting that Jon may be taking over the role of presenting future Settlement Agreement Reports to the TOC. Stuart then presented results for the second quarter of 2015 (April–June). During this quarter, Refuge stages declined, resulting in dry conditions and fewer samples possible for collection. The long-term level was not exceeded. For Taylor Creek and Coastal Basins, the long-term limit was not exceeded.

Provisional Refuge data for July–September 2015 show increasing monthly TP geomeans, but values are below the long-term level. The long-term level is not applicable for July 2015 because average stage was below the minimum (15.42 ft NGVD29).

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Interim values for Shark River Slough exceeded the limits for the 12-month periods ending in April, May, and June 2015, largely due to the influence of higher values in the first quarter of these periods. Provisional data show that the percent of events greater than 10 ppb was below the guideline for the three months.

Associated Online Documents:

- [Settlement Agreement Report, Second Quarter 2015 \(April–June 2015\)](#)
- [Settlement Agreement Report, Second Quarter 2015 Presentation](#)
- [Quality Assessment Report for Water Quality Monitoring, Second Quarter 2015](#)
- [Refuge TP Compliance Table, Updated through Second Quarter 2015](#)
- [Provisional Shark River Slough TP Tracking Report, Second Quarter 2015](#)

10:28 a.m. **3. Vertical Datum at USGS Gaging Stations** – Mark Dickman, USGS

Mark Dickman presented an overview of the vertical datum at USGS gaging stations and WCA-1 stations, including common terms related to gage datum; the USGS perspective, policy, and operations at gaging stations; data corrections; and details about WCA-1 gages related to TOC compliance. It was noted that site 1-8C was not “CERP-adjusted” in the early 2000’s, while the other two compliance stations were.

A discussion between the TOC and meeting participants followed, including questions and answers, and an overview by Howard Ehmke (SFWMD) on the CERP Geodetic Vertical Control Project (the source of CERP-adjusted elevation values). Nick Aumen requested that a less technical explanation be documented that can be more easily understood by a non-specialist and that can be referred to in the future if this topic arises again. Mark Shafer agreed to request that Dave Robars (USACE) develop such a presentation for the next TOC meeting.

The full discussion is available in the TOC meeting video and transcript.

Action Item #1: Mark Shafer will request that Dave Robars (USACE) develop and present a description of the datum changes over the years that can be more easily understood by non-specialists and that can be used as a reference document by the TOC.

Associated Online Documents:

- [Vertical Datum at USGS Gaging Stations \(Presentation\)](#)

11:40 a.m. **4. A New SFWMD Method for Determination of Total Nitrogen (TN) in Water – 2015 Update** – Richard Walker, SFWMD

Richard Walker gave an update on the SFWMD’s new method for direct measurement of TN, which was originally presented to the TOC on July 29, 2014. Since that date, a number of permits and permit modifications have been issued which allow the direct analysis, and associated monitoring plans have been updated accordingly. The District is currently seeking TOC approval to replace the former method of calculating TN (using separately measured NOx

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and TKN values) with the new direct measurement method for water samples associated with Settlement Agreement monitoring.

Stuart Van Horn confirmed in Appendix D (p. D-4) of the Settlement Agreement that total nitrogen monitoring is required, but TKN is not required. Bill Walker noted that it should be possible to continue tracking TKN trends, after TKN samples cease to be collected, by calculating the values using data for NO_x and the new TN method.

TOC Consensus:

The District may use the new direct TN method (and discontinue TKN analysis) for surface water samples associated with the Settlement Agreement.

Associated Online Documents:

- [A New SFWMD Method for Determination of Total Nitrogen in Water - 2015 Update](#)
- [SFWMD Laboratory Total Nitrogen Methods Fact Sheet](#)

12:12 p.m. **5. A Request for a Technical Sub-team on Settlement Agreement Monitoring**

– Pete Rawlik, SFWMD

Pete Rawlik requested the assignment of an interagency technical sub-team to look at four issues related to Settlement Agreement monitoring: 1) methods for marsh samples collected by helicopter, 2) relevancy of S-6, S-5A, and some associated structures to the Everglades Protection Area, 3) pesticide/herbicide monitoring findings and future direction, and 4) atmospheric deposition monitoring, data issues, and future direction.

Action Item #2: TOC representatives agreed to provide a list of staff by November 6, 2015, to participate in a technical sub-team to examine these four issues associated with Settlement Agreement monitoring.

Action Item #3: The interagency technical sub-team will present its findings and recommendations at a future TOC meeting.

Associated Online Documents:

- [A Request for a Technical Sub-team on Settlement Agreement Monitoring \(4 Issues\)](#)

Note: Due to Special Master Barkett needing to leave the meeting early, the TOC changed the order of the agenda to allow items 7, 8, and 9 to be presented ahead of item 6.

1:02 p.m. **7. WY2014 Annual Shark River Slough Compliance** – Juli LaRock, SFWMD

Juli LaRock recapped activities related to increased TP values in Shark River Slough (SRS) during WY2014. Since the last TOC meeting in July 2015, the TOC representatives met with their principals and revised the draft language to address the TP values.

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In a public comment, Drew Martin (Sierra Club) expressed concern about insufficient water entering Everglades National Park and Florida Bay, and noted that the purpose of the Settlement Agreement was not to reduce flows to the Park, but to ensure that the hydrologic needs of the Park are met and that the quality of water entering the Park is acceptable.

Donatto Surratt moved and Lori Miller seconded for the TOC to accept the proposed language and the other TOC representatives confirmed.

TOC Consensus:

The proposed language to address the WY2014 TP values in Shark River Slough was accepted.

Associated Online Documents:

- [WY2014 Annual Shark River Slough Compliance \(Draft\)](#)

1:12 p.m. **8. Process for Dealing with Excursions** – Juli LaRock, SFWMD

Juli LaRock explained that the principals met on September 24, and that they wish to give the TOC a simpler deliberative process for getting quicker resolution when there are excursions. Juli presented a proposed TOC process requested by the principals for evaluating future excursions and considering whether additional remedies should be taken to address them when they occur. The process consists of three questions to ask when excursions occur.

Because the process has not yet been finalized with all of the principals, the federal representatives asked that the TOC table the discussion to allow time for it to be fully vetted by all the principals and communicated to their individual representatives.

In a public comment, Martha Musgrove (Florida Wildlife Federation) expressed a desire to know what the principals are discussing regarding this item, and emphasized the importance of all parties working together to reach consensus.

Action Item #4: TOC representatives will seek further guidance from their principals on the proposed process for dealing with excursions.

Associated Online Documents:

- [Process for Dealing with Excursions \(proposed language\)](#)

1:24 p.m. **9. Refuge Excursions** – Juli LaRock, SFWMD

Juli LaRock mentioned the Refuge excursions that occurred in October 2014 and January 2015, and recounted recent TOC presentations and activities associated with Refuge water quality. Frank Powell gave an update on items included in Jeremy McBryan's presentation at the July TOC meeting, noting that FDEP issued a permit modification for STA-1W expansion construction, and an operational permit for L-8 FEB.

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The TOC used the draft process presented in the previous agenda item as a discussion guide for the Refuge excursions. The representatives agreed that they had sufficiently evaluated the relevant information for a better understanding of what may have caused the excursions and that there is no clear cause, and there is not substantial evidence that the values are due to error or extraordinary natural phenomena. Appendix C of the Settlement Agreement lists potential remedies for consideration, and many of these are covered under activities of Restoration Strategies and the Science Plan.

TOC representatives agreed that projects currently underway, embodied in NPDES and EFA permits, consent orders, source controls, and future features of Restoration Strategies and the Science Plan, should improve water quality conditions long-term, and no additional remedies should be considered at this time for the two Refuge excursions.

TOC Consensus:

No additional remedies are needed at this time to address the two Refuge excursions that occurred in October 2014 and January 2015.

1:41 p.m. **6. Water Conservation Area 1 and Everglades National Park Annual Total Phosphorus Criteria Compliance Assessment – WY2015 – Paul Julian II, FDEP**

Paul Julian presented an update on Phosphorus Rule compliance in WCA-1 and TP trends in both WCA-1 and ENP for WY2015, and indicated that much of this information will be included in the 2016 South Florida Environmental Report next March.

Dan Scheidt, USEPA, pointed out that some of the stations in the presentation have different periods of record than the others due to differing start dates, and asked why stations P35 and P36 in ENP are no longer included in the map that was just presented to TOC.

Action Item #6: Paul Julian will look into why stations P35 and P36 are no longer included in the assessment.

Associated Online Documents:

- [WCA-1 and ENP Annual TP Criteria Compliance Assessment – WY2015](#)

1:52 p.m. **10. Update on Sub-Committee for Dealing with Refuge Stage Data Gaps – Donatto Surratt, ENP**

The sub-committee met with SFWMD staff, John Raymond and Stuart Van Horn, and identified one additional modification that has been incorporated into the model, improving it substantially. The next step is for Donatto, John, and Stuart to meet again and discuss what course of action to pursue.

Action Item #7: At a future TOC meeting, Donatto Surratt will present an update about the progress of the sub-committee for dealing with Refuge stage data gaps.

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1:54 p.m. **11. Update on Appendix A Sub-team** – Paul Julian II, FDEP

Since the last TOC meeting, the Appendix A sub-team met twice. The State's change conditions list was given to the Federal parties and converted to a matrix that was shown at the last principals meeting. Members of the sub-team expressed their concern about the S-356 Increment 0 and Increment 1 pump station test and asked the principals if they could change direction slightly.

The sub-team has been following the objectives of its original scoping document and has made a lot of progress. The final revision of the change conditions matrix has a lot of valuable information and is at a good stopping point for now.

The principals have requested that the sub-team refocus efforts to explore a compliance methodology for inclusion of S-356 into the Appendix A equation. Because the sub-team is part of the TOC and was originally commissioned to pursue different objectives, the team is requesting TOC approval to shift focus from the matrix to S-356 methodology.

TOC Consensus:

The Appendix A sub-team may shift its focus to explore a compliance methodology for inclusion of S-356 into the Appendix A equation.

1:59 p.m. **12. Public Comment (as requested)**

Martha Musgrove (Florida Wildlife Federation) made the following public comment: "Good start. Now let's get to work!"

2:00 p.m. **13. TOC Closing Business** – Juli LaRock, SFWMD

Juli LaRock reviewed the action items.

Quarterly meetings were scheduled for January 26 and April 26, 2016.

Juli LaRock adjourned the meeting.

October 26, 2015

WY2014 Annual Shark River Slough Compliance

According to Appendix A of the Consent Decree, “[a]n exceedance occurs if the flow-weighted mean concentration for the water year ending September 30th is greater than the 10% rejection level of the computed limit. Based upon review of trends for flow-weighted means, trends for the frequencies of samples exceeding 10 ppb, and other information found relevant by the panel, the TOC members will forward their opinions and recommendations to their respective agencies for appropriate action. An exceedance will constitute a violation unless the TOC determines that there is substantial evidence that it is due to error or extraordinary natural phenomena.” If an exceedance occurs that is not due to error or extraordinary natural phenomena, Appendix C must be applied. Appendix C of the Consent Decree requires that additional remedies will be taken if the Park or Refuge phosphorus limits or concentration levels are violated.

Following the procedure outlined by the Consent Decree in Appendix A, the TOC representatives examined the relevant data and trends regarding Water Year 2014 flow-weighted-mean concentration limits into the Shark River Slough and offered their opinions and recommendations to their respective agencies for appropriate action. Specifically, the TOC representatives evaluated and discussed factors that may have contributed to the exceedance, such as climate, upstream marsh and canal hydrology, and water quality, and have made those discussions available to the Principals for their use. Ultimately, the TOC determined that there was an exceedance for Water Year 2014 and did not find substantial evidence that the exceedance was due to error or extraordinary natural phenomena. As a result of this finding, the TOC applied Appendix C to consider what additional remedies will be taken.

Upon review, consultation, and analysis of the data, the TOC has reached consensus on a technically based recommendation for compliance with Appendix A. The TOC representatives agree that current circumstances and information indicate that the measures currently underway, and the additional measures identified in the State NPDES and EFA permits and associated Consent Orders, are expected to achieve the requisite water quality in inflows from the Water Conservation Areas to Shark River Slough. Based on the consideration of the long-term downward trends for the flow-weighted means, the trends for the frequencies of samples exceeding 10 parts per billion, and other information, the TOC recommends that no additional technical analysis of the WY2014 Shark River Slough water quality data be conducted. The aforementioned measures are being timely implemented and are expected to achieve water quality limits set forth in the Consent Decree; therefore, at this time, the TOC does not recommend remedies in addition to those currently planned and/or underway to address the Water Year 2014 exceedance.