Settlement Agreement
October - December 2003 Report

Prepared for the
Technical Oversight Committee
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ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE

The 1991 Settlement Agreement ended the Everglades lawsuit and was entered into by the federal government, the State of Florida and the South Florida Water Management District. The subsequent Consent Decree, as modified in 1995, specified that interim and long-term phosphorus concentration levels for the Arthur R. Marshall Loxahatchee National Wildlife Refuge (Refuge) must be met by Feb. 1, 1999, and Dec. 31, 2006, respectively. The concentration levels vary monthly because they are calculated as a function of water stage measured at gauging stations 1-7, 1-8C and 1-9 within the Refuge. According to the Settlement Agreement, the stage range within which the interim and long-term concentration levels are applicable is 15.42 to 17.14 feet (mean sea level). The monthly total phosphorus concentrations are determined from water samples collected at 14 interior marsh stations, LOX 3 through LOX 16 (**Figure 1**). As required in the Consent Decree, the geometric mean concentration is calculated and compared to the interim and long-term concentration levels.

Average stages in the Refuge were 17.15, 16.98 and 16.91 feet in October, November and December 2003, respectively (Please see **Figure 2** and **Table 1)**. The geometric means, calculated from total phosphorus concentrations measured in water samples collected in October, November and December were 7.0, 7.5 and 7.6 ppb, respectively. These values were less than the interim and long-term levels for October, November, and December.

Only 11 stations were sampled in November. LOX stations 3, 5 and 9 had total water depths less than 10 cm which precluded sample collection.

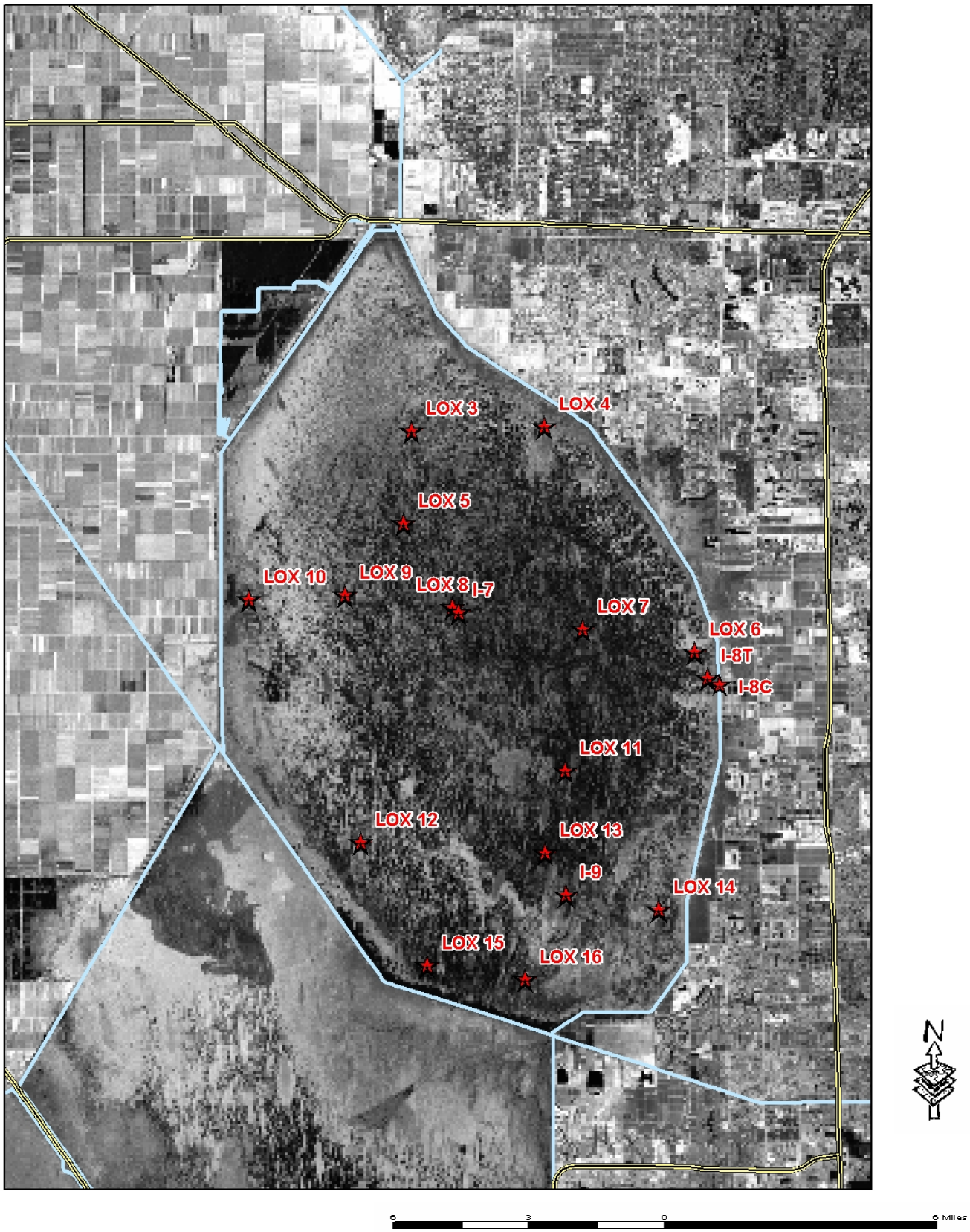

Figure 1. A.R.M. Loxahatchee Refuge Water Quality Sampling and Stage Measurement Sites

★ Station Location

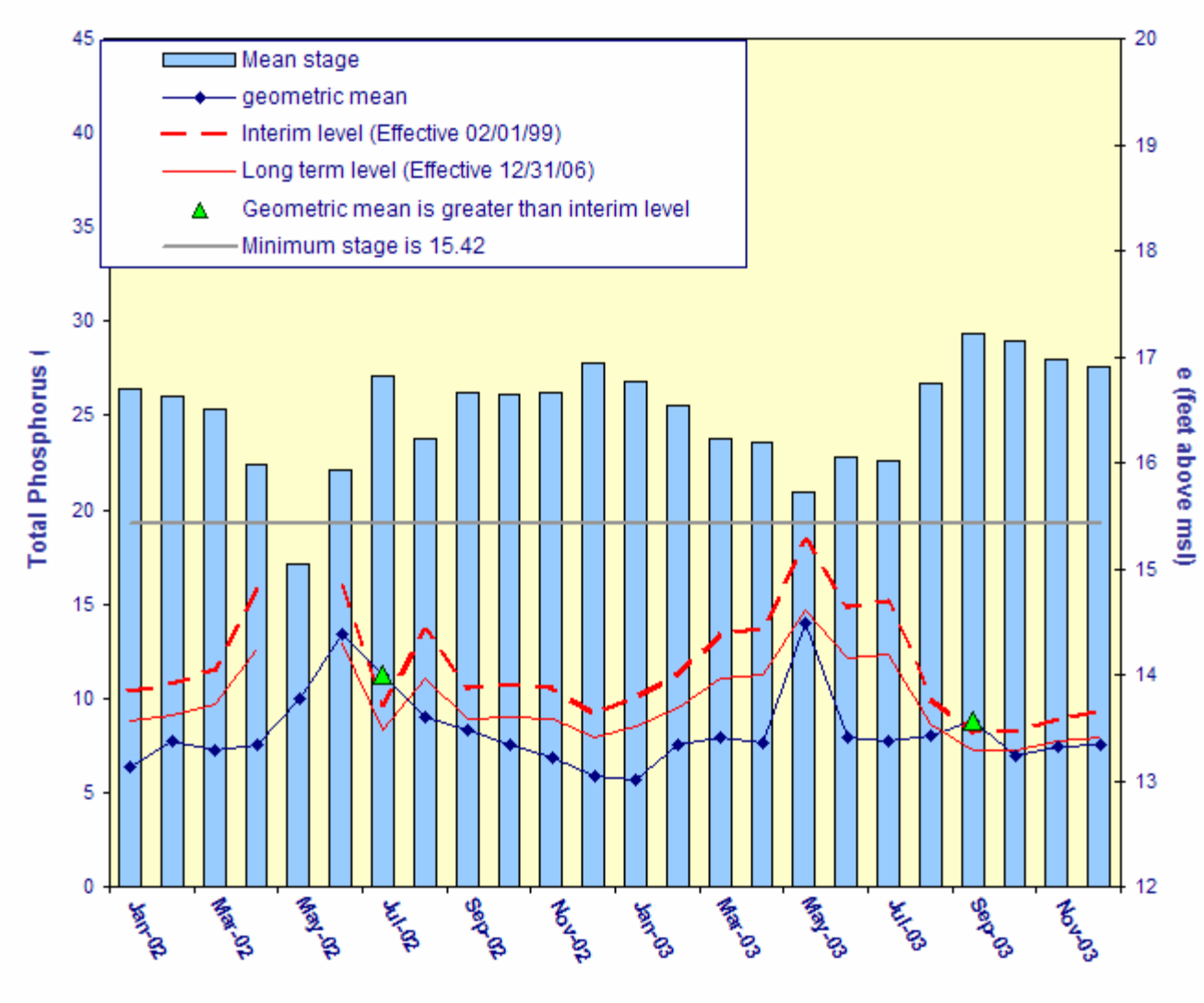

Figure 2. Monthly total phosphorus geometric mean concentrations for the A.R.M. Loxahatchee National Wildlife Refuge compared to the interim and long-term levels. Interim and long-term concentration levels are not applicable if the stage is less than 15.42 ft. The calculated levels are adjusted for fluctuations in stage.

Table 1. Loxahatchee National Wildlife Refuge Total Phosphorus Compliance Tracking.

Month - Year	Geometric Mean Concentration (ppb)	Interim Level (ppb) Effective 2/1/99	Long Term Level (ppb) Effective 12/31/06	Average Stage (ft,NGVD)	Number of TP Samples	Number of Stage Measure-ments
Jan-2002	6.4	10.4	8.8	16.69	14	3
Feb-2002	7.8	10.7	9.1	16.63	14	3
Mar-2002	7.3	11.5	9.7	16.50	14	3
Apr-2002	7.5	15.6	12.7	15.98	11	3
May-2002	10.0	N/A	N/A	15.04	3	3
Jun-2002	13.4	16.0	12.9	15.94	10	3
Jul-2002	11.2	9.7	8.3	16.82	14	3
Aug-2002	9.0	13.5	11.1	16.22	12	3
Sep-2002	8.3	10.6	8.9	16.66	11	3
Oct-2002	7.5	10.7	9.0	16.64	12	3
Nov-2002	6.9	10.5	8.9	16.66	12	3
Dec-2002	5.9	9.2	7.9	16.93	14	3
Jan-2003	5.7	10.0	8.5	16.76	13	3
Feb-2003	7.5	11.3	9.5	16.54	11	3
Mar-2003	8.0	13.4	11.1	16.23	9	3
Apr-2003	7.6	13.7	11.2	16.20	12	3
May-2003	14.0	18.3	14.6	15.72	7	3
Jun-2003	7.9	14.8	12.1	16.06	11	3
Jul-2003	7.7	15.2	12.3	16.02	9	3
Aug-2003	8.0	10.1	8.6	16.74	14	3
Sep-2003	8.8	8.3	7.2	17.23	13	3
Oct-2003	7.0	8.3	7.2	17.15	14	3
Nov-2003	7.5	8.9	7.7	16.98	11	3
Dec-2003	7.6	9.3	8.0	16.91	14	3

Notes: *(1) Average Stage is calculated using stage elevations at three stations on the sampling date*
(2) Highlighted rows indicate months when excursions occurred
(3) N/A denotes that the concentration levels were not applicable because the average stage was less than 15.42 feet.

EVERGLADES NATIONAL PARK

Shark River Slough

The Consent Decree of 1995 specified that interim and long-term total phosphorus concentration limits for discharges into the Everglades National Park (ENP) through Shark River Slough be met by October 1, 2003, and December 31, 2006, respectively. Only the total phosphorus concentrations for the water year ending September 30 are evaluated for compliance with the Consent Decree limits. It was also specified that the total phosphorus concentrations be presented as 12-month moving flow-weighted means. The long-term total phosphorus concentration limit for inflows to Shark River Slough through structures S12A, S12B, S12C, S12D and S333 represents the concentrations delivered during the Outstanding Florida Waters baseline period of March 1, 1978 to March 1, 1979, and is adjusted for variations in flow.

Inflow concentrations of total phosphorus through Shark River Slough are compared to the interim and long-term limits at the end of each water year from 1991 to 2003 (**Figure 3A**). The 12-month moving flow-weighted mean total phosphorus concentration ending September 2003 was 9.2 ppb. Corresponding interim and long-term limits were 9.4 and 7.6 ppb, respectively. For the ten-year period 1994 through 2003, the interim limit applicable to Shark River Slough has been met eight times. The limit was exceeded in Water Years 2000 and 2001.

Table 2 presents the moving flow-weighted mean concentrations for each 12-month period beginning in October 2001 as well as the corresponding interim and long-term total phosphorus concentration limits, calculated using the 12-month period flow. For the 12-month periods ending in October, November and December 2003, the flow-weighted mean total phosphorus concentrations were 9.7, 9.5 and 9.2 ppb, respectively. The October, November and December concentrations were less than the interim limit, but the long-term limits were exceeded in each of these months.

The Consent Decree stipulates that the percent of flow-weighted mean total phosphorus concentrations greater than 10 ppb from each sampling event in any 12-month period must not exceed a guideline value based on flow into Shark River Slough for the same 12-month period. For the 12-month periods ending October, November and December 2003, the percent of flow-weighted mean total phosphorus concentrations greater than 10 ppb were 50.0, 46.2 and 46.2, respectively. October, November and December observed percentages were greater than the guidelines (**Table 2**). The individual sampling events and the 12-month moving average are presented in **Figure 3B**.

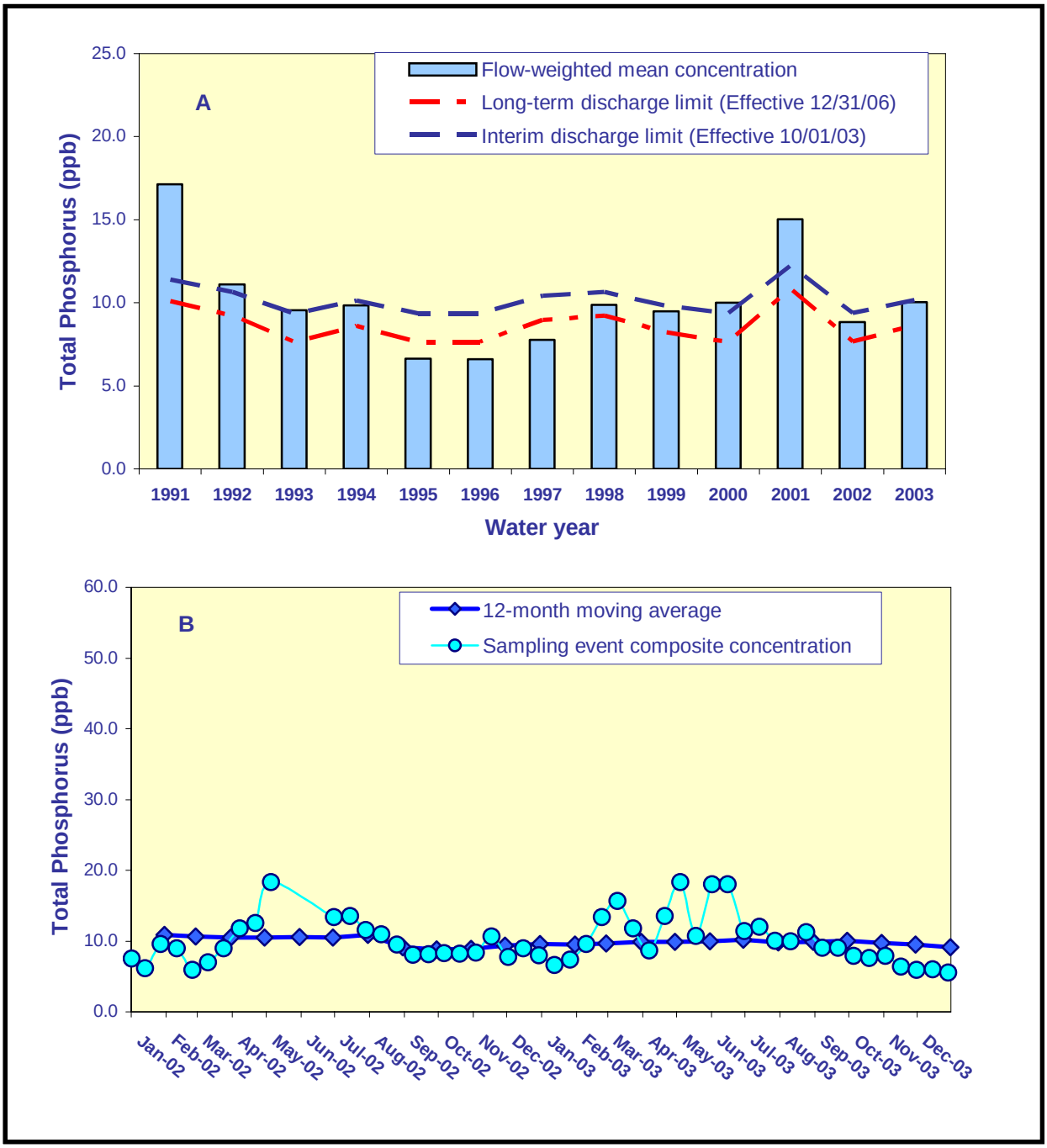

Figure 3. Total phosphorus flow-weighted mean concentrations (fwmc) in inflows to Everglades National Park through Shark River Slough.
A. The 12-month moving average fwmc at the end of each water year compared to the total phosphorus interim and long-term limits.
B. The 12-month moving average fwmc at the end of each month and the composite total phosphorus concentration for each sampling event.

Table 2. Shark River Slough Total Phosphorus Concentration Compliance

Tracking.

12-Month Period Ending On	Total Period Flow	Flow Weighted Mean Total Phosphorus	Interim Limit (ppb)	Long Term Limit (ppb)	Percent of Sampling Events Greater than 10 ppb	
			Effective	Effective	(%)	
	(Kac-ft)	(ppb)	10/1/2003	12/31/2006	Guideline	Observed
31-Jan-02	707.8	10.9	10.8	9.4	48.9	***52.6***
28-Feb-02	741.3	10.7	10.6	9.2	48.0	45.0
31-Mar-02	809.5	10.5	10.3	8.9	46.1	40.9
30-Apr-02	829.9	10.5	10.3	8.8	45.6	40.9
31-May-02	833.5	10.5	10.2	8.7	45.5	43.5
30-Jun-02	839.6	10.5	10.2	8.7	45.3	40.9
31-Jul-02	958.5	10.9	9.7	8.1	42.4	***45.8***
31-Aug-02	1003.2	9.1	9.6	7.9	41.4	39.1
30-Sep-02	1048.1	8.8	9.4	7.7	40.4	30.4
31-Oct-02	999.9	8.9	9.6	7.9	41.5	30.4
30-Nov-02	884.5	9.4	10.0	8.5	44.2	34.8
31-Dec-02	802.2	9.6	10.4	8.9	46.3	33.3
31-Jan-03	831.1	9.5	10.3	8.8	45.6	34.8
28-Feb-03	843.6	9.7	10.2	8.7	45.2	39.1
31-Mar-03	812.1	9.9	10.3	8.9	46.1	***47.8***
30-Apr-03	832.1	9.9	10.2	8.8	45.5	43.5
31-May-03	871.3	10.0	10.1	8.6	44.5	**45.8**
30-Jun-03	901.1	10.2	10.0	8.4	43.8	***50.0***
31-Jul-03	891.3	9.8	10.0	8.5	44.0	***50.0***
31-Aug-03	839.3	9.9	10.2	8.7	45.3	***50.0***
30-Sep-03	850.1	10.0	10.2	8.7	45.1	***50.0***
31-Oct-03	921.8	9.7	9.9	8.3	43.3	***50.0***
30-Nov-03	1001.5	9.5	9.6	7.9	41.4	***46.2***
31-Dec-03	1076.8	9.2	9.4	7.6	40.1	***46.2***

Notes: ***Bold italicized values exceeded guideline percentage***

The daily flows through the individual Shark River Slough structures and S334 from October 2001 through December 2003 are presented in **Figure 4A**. Since mid-November 2002 inflows to Shark River Slough have been through S333 and S12D. Beginning in mid-January 2003 a large proportion of the flow in the L29 Canal was released from the system through S334 due to above-average rainfall. This condition lasted until mid-June.

The relationship between the sum of the daily flows at Shark River Slough structures and corresponding flow-weighted mean total phosphorus concentrations for individual sampling events is presented in **Figure 4B.** Values for Water Years 2002 and 2003 follow the strong inverse relationship between flow and total phosphorus concentration expected for waters entering the Park through Shark River Slough. However, during the unseasonable rainfall conditions that occurred from February through May 2003, total phosphorus concentrations were greater and more variable, 9 to 18 ppb, than observed previously when flows were less than 500 cfs. From June through September 2003, increasing flows resulted in gradually decreasing total phosphorus concentrations from 18 ppb to 9 ppb. The concentration continued to decrease to 5.5 ppb by the end of December 2003.

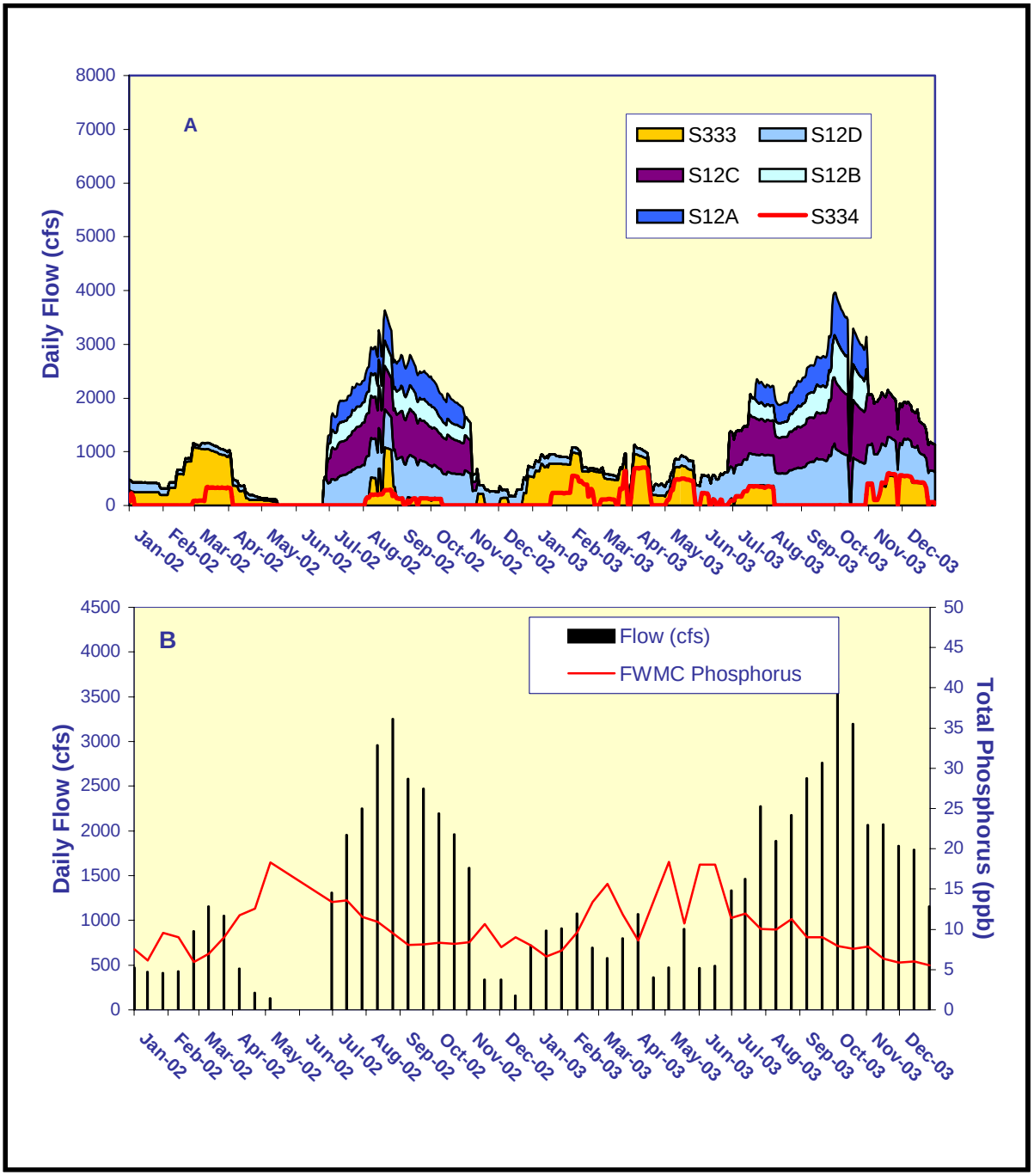

Figure 4. **A**. Daily flows into Shark River Slough (through S12 structures and S333) and flow through S334. **B**. The relationship between daily flow at Shark River Slough structures and the corresponding flow-weighted mean total phosphorus concentrations for individual sampling events.

Taylor Slough and the Coastal Basins

Under the Consent Decree, a single total phosphorus long-term limit of 11 ppb, to be met by December 31, 2006, was set for the two points of inflow to Taylor Slough (S332 and S175) and the inflow point to the Coastal Basins (S18C). The 11 ppb limit applies to the water year ending September 30.

C-111 Project Structures and Detention Areas

Beginning in August 1999, structure S332D, a new pump station constructed by the U.S. Army Corps of Engineers (USACE), began operation. The structure is adjacent to spillway S174 and pumps water from the L31N canal into the L31W canal. The S332D and S174 structures became the new inflow compliance monitoring sites for Taylor Slough on October 1, 1999, replacing S332 and S175.

The USACE completed construction of the remaining C-111 project structures and detention areas along the eastern boundary of the ENP in June 2002. The project was authorized by the USACE in 1995 to restore more natural hydrologic conditions in Taylor Slough and to maintain flood protection to the east of the L31N and C-111 canals. Project facilities consist of pump stations S332B, S332C and S332D, Detention Cells 1 through 5, a Connector Cell between cells 2 and 3, a Flow Way Cell originating at Berm 3 of Cell 5, and four emergency overflow structures (**Figure 5**). The Flow Way Cell is the only surface water routine discharge location to the ENP from this project.

The construction of these facilities was accelerated to respond to U.S. Fish and Wildlife requirements to give immediate relief to water conditions that threaten the Cape Sable Seaside Sparrow, an endangered species. The USACE signed a Record of Decision on July 2, 2002 that authorizes the implementation of an Interim Operational Plan (IOP) to govern the operation of the new facilities. Since July 31, 2002, the USACE has been operating the project under Emergency Orders issued by the Florida Department of Environmental Protection (FDEP).

The USACE and the South Florida Water Management District (District) will monitor the implementation of the IOP under the terms and conditions of the C-111 Project Cooperation Agreement executed in 1995. The USACE has implemented a monitoring plan approved by FDEP that assesses the hydrologic, environmental, and surface and ground water quality changes that may occur as a result of the IOP.

The monitoring plan treats the detention areas as a single project with five cells, three inflows and a single outflow to ENP. Only Emergency Overflows EO2 and EO4 would discharge into ENP if utilized. Overflows have periodically occurred at EO2 during the period between September 2001 and September 2003. There were no overflows during the period from October 2003 to December 2003. Data from the overflows will be presented graphically in this report when they occur. Discharges from Emergency Overflows EO1 and EO3 would flow onto District property and eventually into the L31N Canal. The majority of the water pumped into the detention cells, as well as rainfall, is expected to seep into the Biscayne Aquifer directly below the project site and provide a hydrologic “curtain” to reduce ground water seepage in an easterly direction from ENP. Until FDEP issues an operating permit to the District and approves the District’s monitoring plan, the District will continue to report data from S332D and S174 to determine compliance with the Consent Decree requirements as described in the following section.

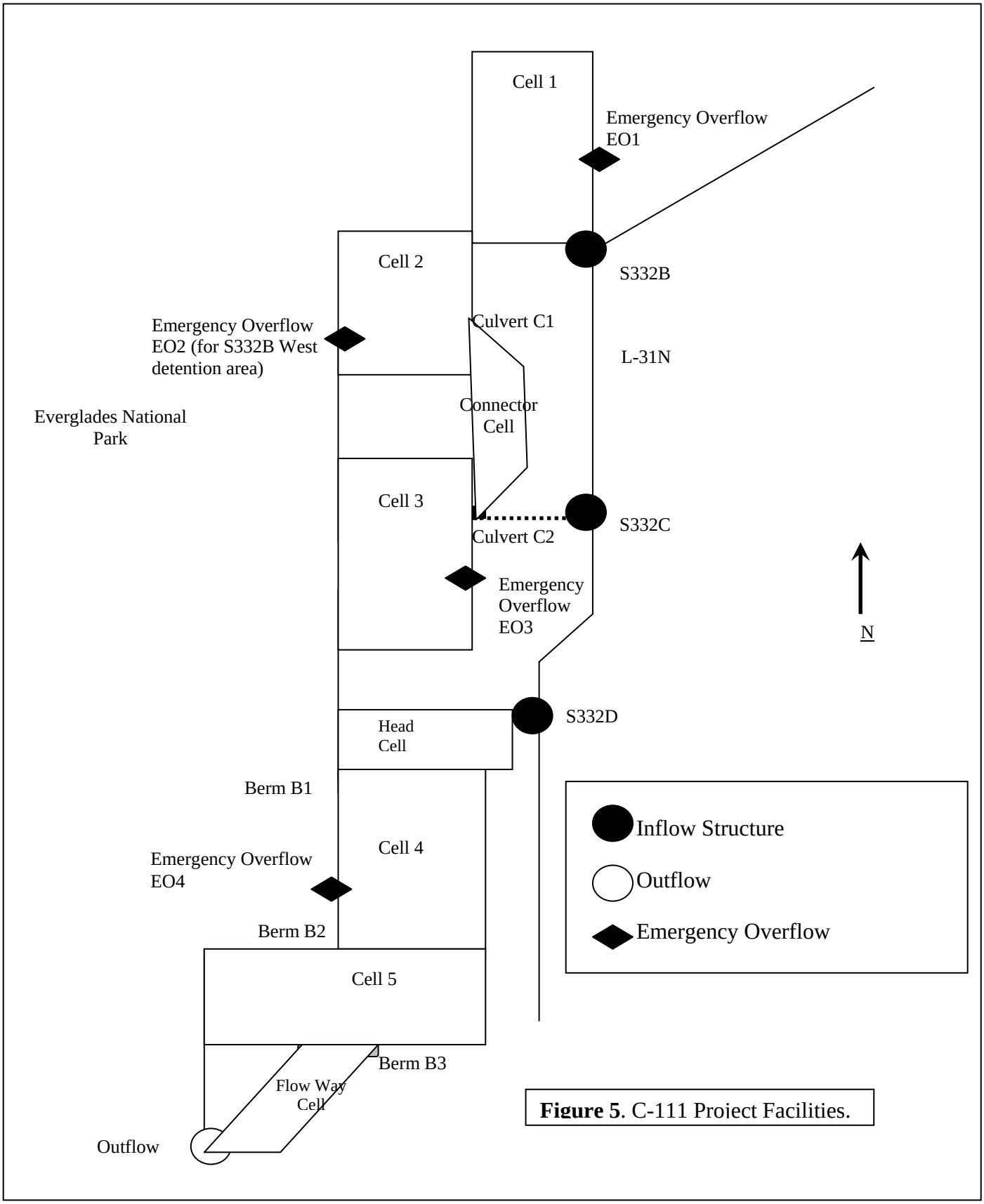

Figure 5. C-111 Project Facilities.

Compliance with Consent Decree

Inflow concentrations of total phosphorus to the Everglades National Park through Taylor Slough and the Coastal Basins are compared to the 11 ppb limit at the end of water years from 1999 through 2002 using data from both the old (S175, S332, S18C) and new (S174, S332D, S18C) combinations of structures (**Figure 6A**). The bars in **Figure 6A** represent the flow-weighted mean total phosphorus concentrations from S332, S175 and S18C for water years 1989 through 2002. In water year 2003, flows through S332 and S175 were intermittent. Flow through S332 totaled 97.64 cfs with 92.2 cfs pumped in December 2002. Flow through S175 totaled 467.8 cfs with 464.13 cfs passing through the structure in February 2003. Consequently, no flow-weighted mean total phosphorus was calculated for Water Year 2003 using the S332, S175 and S18C structures. The diamond point values for water years 1999 through 2003 represent the flow-weighted mean total phosphorus concentrations for S174, S332D and S18C. **Figure 6B** presents the 12-month moving average and individual sampling event flow-weighted mean total phosphorus concentrations at the S174, S332D and S18C structures.

The 12-month flow-weighted mean concentrations for October, November and December 2003 were 5.0, 5.1 and 5.0 ppb, respectively, for the combined flow through S174, S332D and S18C (**Table 3**). The Consent Decree stipulates that the percent of flow-weighted mean total phosphorus concentrations greater than 10 ppb from each sampling event in any 12-month period must not exceed a fixed guideline of 53.1 percent. The percentage of flow-weighted mean total phosphorus concentrations greater than 10 ppb for the combined flow through S174, S332D and S18C was 0.0 for the periods ending October, November and December 2003.

The daily flows into Everglades National Park through S332D, S174 and S18C are presented in **Figure 7A**. **Figure 7B** shows the relationship between the daily inflows and the corresponding flow-weighted mean total phosphorus concentrations for each sampling event. As the data indicate, there is no clear linear relationship between daily mean flow and flow-weighted mean total phosphorus concentrations at these structures.

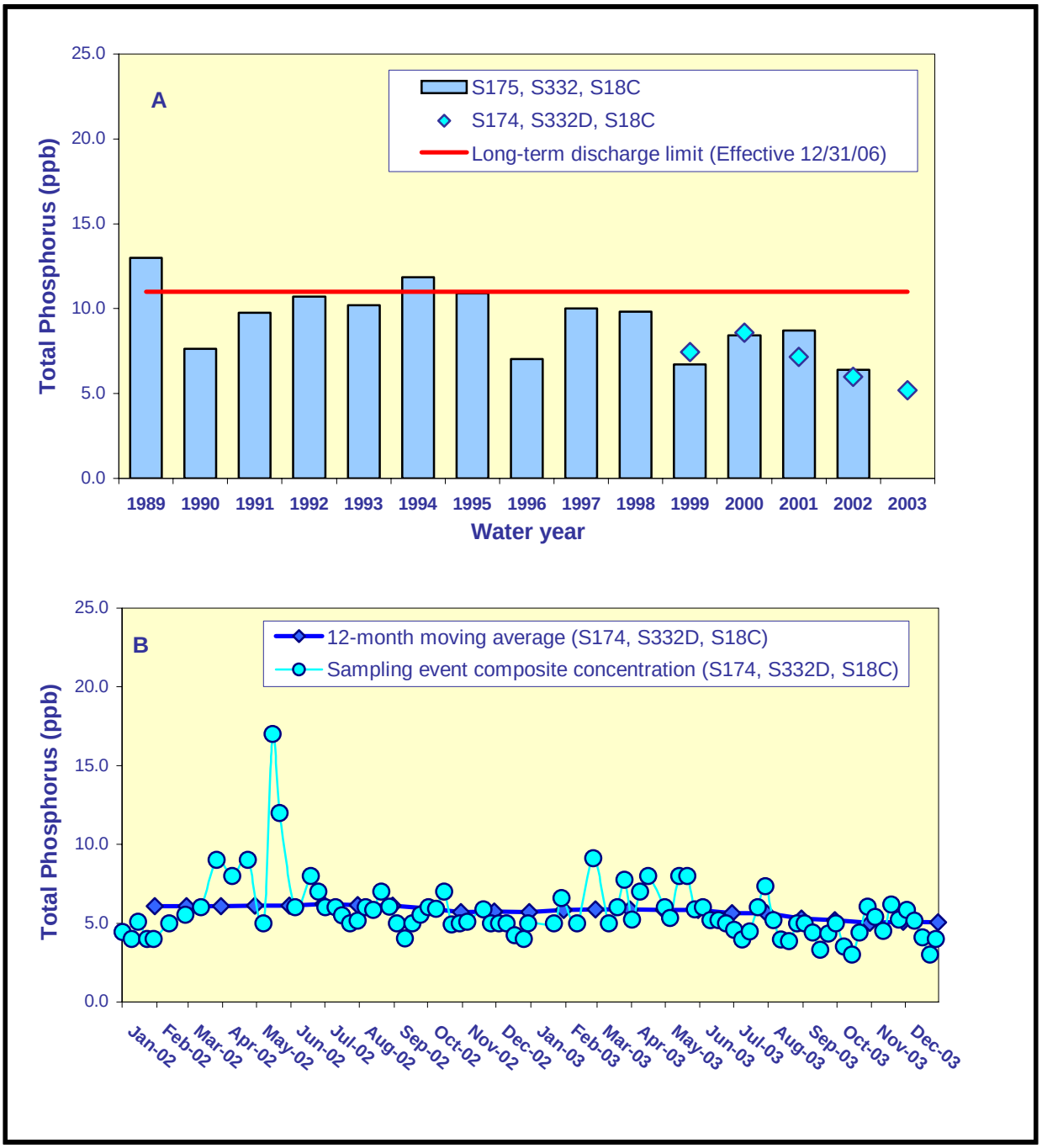

Figure 6. Total phosphorus flow-weighted mean concentrations (fwmc) in inflows to Everglades National Park through Taylor Slough and the Coastal Basins. **A.** The 12-month moving average fwmc at the end of each water year compared to the 11 ppb long-term total phosphorus limit. **B**. The 12-month moving average fwmc at the end of each month and the composite total phosphorus concentration for each sampling event.

Table 3. Taylor Slough and the Coastal Basins Total Phosphorus Concentration Compliance Tracking.

12-Month Period Ending On	Total Period Flow	Flow Weighted Mean Total Phosphorus	Limit (Effective 12/31/06)	Percent of Sampling Events Greater than 10 ppb	
			(ppb)	(%)	
	(Kac-ft)	(ppb)	Long Term	Guideline	Observed
31-Jan-02	316.0	6.1	11.0	53.1	5.9
28-Feb-02	320.6	6.1	11.0	53.1	0.0
31-Mar-02	325.9	6.1	11.0	53.1	0.0
30-Apr-02	331.1	6.1	11.0	53.1	0.0
31-May-02	336.4	6.1	11.0	53.1	5.0
30-Jun-02	364.3	6.2	11.0	53.1	4.9
31-Jul-02	392.1	6.1	11.0	53.1	4.7
31-Aug-02	388.3	6.1	11.0	53.1	4.7
30-Sep-02	371.8	6.0	11.0	53.1	4.7
31-Oct-02	316.0	5.7	11.0	53.1	4.5
30-Nov-02	271.6	5.8	11.0	53.1	4.8
31-Dec-02	249.8	5.7	11.0	53.1	4.7
31-Jan-03	234.2	5.8	11.0	53.1	5.0
28-Feb-03	229.9	5.9	11.0	53.1	5.0
31-Mar-03	230.5	5.9	11.0	53.1	4.9
30-Apr-03	231.5	5.8	11.0	53.1	4.8
31-May-03	244.2	5.8	11.0	53.1	0.0
30-Jun-03	249.8	5.6	11.0	53.1	0.0
31-Jul-03	209.0	5.6	11.0	53.1	0.0
31-Aug-03	216.1	5.3	11.0	53.1	0.0
30-Sep-03	221.9	5.2	11.0	53.1	0.0
31-Oct-03	233.8	5.0	11.0	53.1	0.0
30-Nov-03	276.6	5.1	11.0	53.1	0.0
31-Dec-03	293.9	5.0	11.0	53.1	0.0

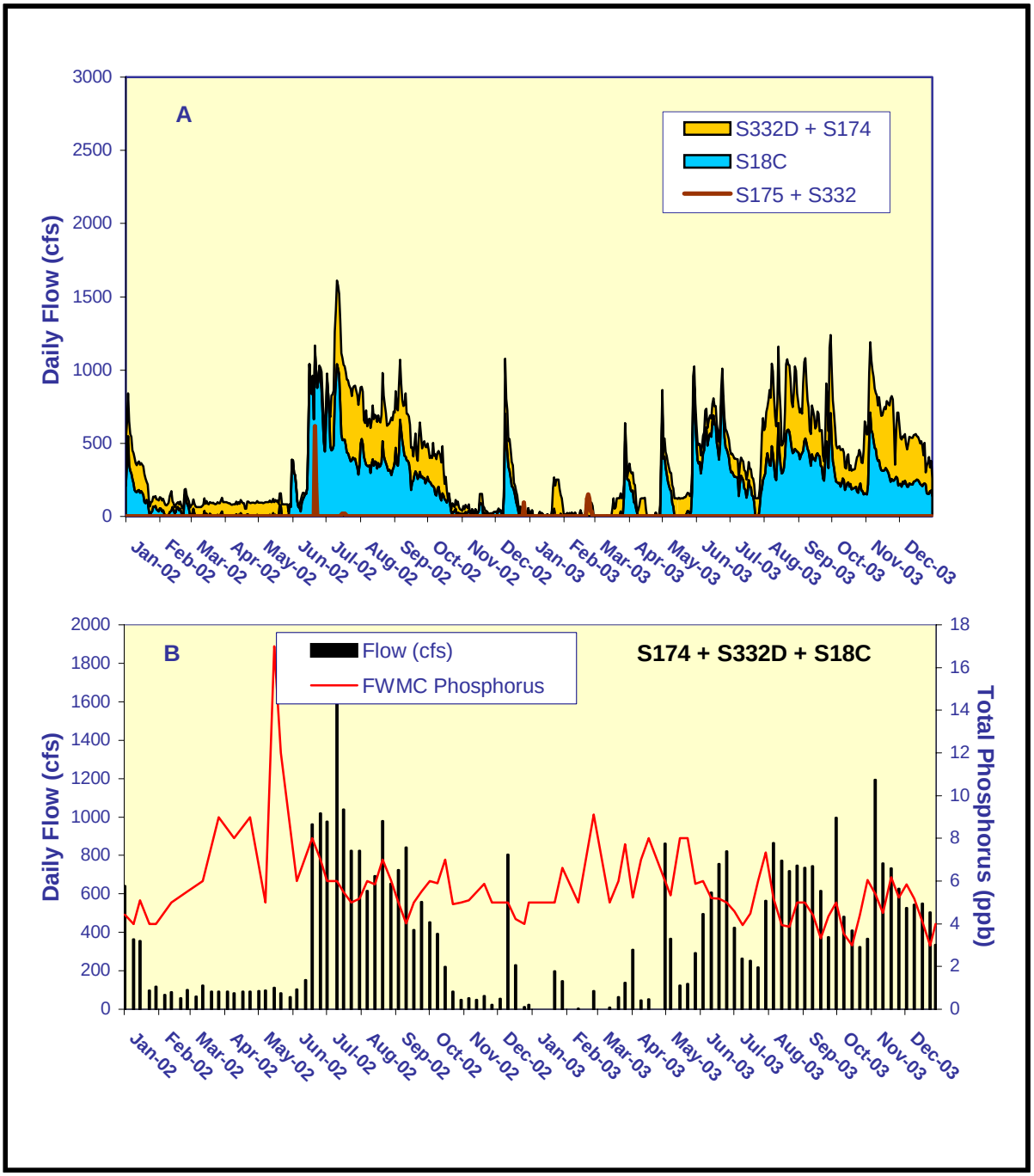

Figure 7. **A.** Daily flows through compliance structures into Everglades National Park through Taylor Slough and S18C. Flow through the original compliance structures is shown as a red line. **B**. The relationship between daily flows at Taylor Slough structures and S18C and the corresponding flow-weighted mean total phosphorus concentrations for individual sampling events.