

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2002- 182

4
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER
6 MANAGEMENT DISTRICT entering into a 50 year license agreement with the United States Fish
7 & Wildlife Services for the operations of the Arthur L. Marshall Loxahatchee Wildlife Refuge,
8 within Water Conservation Area 1, at no cost to the District; providing an effective date. (Contract
9 Number C-13654)

10
11 WHEREAS, the Governing Board of the South Florida Water Management District deems it necessary,
12 appropriate and in the public interest to authorize entering into a 50 year license agreement with the United States Fish &
13 Wildlife Services for the operations of the Arthur L. Marshall Loxahatchee Wildlife Refuge, within Water Conservation
14 Area 1, at no cost to the District. (Contract Number C-13654) and

15 WHEREAS a copy of the agreement is attached to this resolution and made a part hereof;

16 NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA
17 WATER MANAGEMENT DISTRICT:

18 Section 1. The Governing Board of the South Florida Water Management District hereby authorizes the execution
19 of the attached agreement C-13654 with the United States Fish & Wildlife Services.

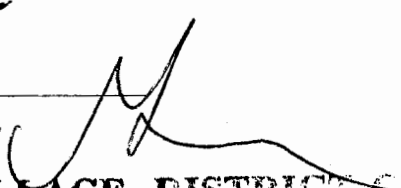
20 Section 2. This resolution shall take effect immediately upon adoption.

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22 PASSED and ADOPTED this 13th day of JUNE, 2002.

23 SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS
24 GOVERNING BOARD

25 By: 

Chairman

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29
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31 Assistant Secretary 

32 **GARRETT WALLACE, DISTRICT CLERK**
33 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

34 Approved as to form:

35 BY: 

Office of Counsel

ORIGINAL

LICENSE AGREEMENT

BETWEEN

THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

AND

THE UNITED STATES FISH AND WILDLIFE SERVICE

FOR

THE ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE

WITHIN

WATER CONSERVATION AREA ONE

This License Agreement (hereinafter referred to as the "License"), is made and entered into on July 1, 2002 (hereinafter referred to as the "Date of this License") between the **South Florida Water Management District**, (hereinafter referred to as the "District"), pursuant to Section 373.056, F.S., and the **United States Fish and Wildlife Service** (hereinafter referred to as the "Service"), pursuant to the Fish and Wildlife Coordination Act, 16 U.S.C. 663(a),(b), 664, and is consented to by the **Florida Board of Trustees of the Internal Improvement Trust Fund of the State of Florida** (hereinafter "the Board of Trustees"). The District, the Service, and the Board of Trustees are sometimes collectively referred herein as the "Parties."

WITNESSETH, THAT:

Whereas, in 1951 the Central and Southern Florida Flood Control District and the U.S. Fish and Wildlife Service executed a license agreement wherein certain wildlife management functions within Water Conservation Area No. 1 were granted to the Service for a fifty-year term, with discretionary renewal periods; and

Whereas, the U.S. Fish and Wildlife Service has designated Water Conservation Area 1 as the Arthur R. Marshall Loxahatchee National Wildlife Refuge; and

Whereas, in 2000, the South Florida Water Management District, as successor to the Central and Southern Florida Flood Control District, notified the Secretary of the Interior that the license agreement of 1951 would not be renewed, and the parties agreed to a one-year extension of the 1951 license agreement, as amended, to provide time to negotiate a new license agreement; and

Whereas, the U.S. Fish and Wildlife Service has developed a Comprehensive Conservation Plan, dated September 8, 2000, to guide management and resource use at the Arthur R. Marshall Loxahatchee National Wildlife Refuge; and

Whereas, the Comprehensive Conservation Plan reflects the challenges and opportunities presented in managing the Arthur R. Marshall Loxahatchee National Wildlife Refuge, a portion of the remnant Everglades, as a part of the regional water management system of south Florida; and

Whereas, the Parties desire that such management be undertaken in a spirit of cooperation and partnership;

Whereas, the Parties have established performance goals and measures to monitor and assess the achievement of the goals as set forth in the Comprehensive Conservation Plan.

Now, therefore: for valuable consideration as stated herein, the Parties do hereby mutually covenant and agree as provided herein.

Article I. New License

1. The District, which is the successor to the Central and Southern Florida Flood Control District, hereby terminates the Cooperative and License Agreement between the Central and Southern Florida Flood Control District and the United States of America, executed by the Flood Control District on November 20, 1950 and by the Service on June 8, 1951, as amended.

2. The District hereby grants a new license upon, and makes available to the Service for the purposes and subject to the terms and conditions hereinafter set forth (hereinafter referred to as the "License"), use of the real property, or interests therein, acquired by the District in Water Conservation Area Number One (hereinafter referred to as "the License Lands"), a part of the South Florida Water Management District, in Palm Beach County, Florida, together with all improvements which are located thereon, as more particularly described in attached Exhibit "A," made a part hereof). A map, which generally identifies the location of the License Lands, is attached as Exhibit "B", made a part hereof. Exhibits "A" shall control in the event of any discrepancy with the information provided in Exhibit "B."

Article II. Use of the License Lands By The Service

1. The Service shall use the License Lands as part of the Arthur R. Marshall Loxahatchee National Wildlife Refuge (hereinafter "Refuge") "to serve as an outstanding showcase for ecosystem management that restores, protects, and enhances a portion of the unique north Everglades biological community. This public asset provides for the enjoyment and enhanced quality of life for present and future generations." (Refuge mission statement)

2. Subject to the primary uses of the License Lands as provided in Article IV below, the License Lands shall be managed as a unit of the National Wildlife Refuge System that has the mission, as defined by the National Wildlife Refuge System Improvement Act of 1997, to "administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans." These missions are to be

attained through the following management practices covering wildlife and habitat and wildlife-dependent recreational uses of this area that are compatible with the purposes for which the refuge was established.

3. Adequate provisions shall be made to maintain wildlife and habitat resources in a natural, healthy condition through:

(A) Maintaining as closed areas for nesting, denning, roosting, loafing, feeding, and breeding habitat so much of the License Lands as will ensure natural, healthy populations of migratory birds, such as wading birds, birds of prey, shorebirds, waterfowl, and neotropical migratory birds; fish; reptiles; amphibians; mammals; and other animal species.

(B) Removing invasive or exotic plant and animal species such as melaleuca, climbing fern, Brazilian pepper, and Australian pine to the best of its capabilities through mechanical, chemical, or biological control means to restore this north Everglades ecosystem to as historically natural a condition as possible.

(C) Conducting inventorying, monitoring, and research of wildlife, habitats, water quality, contaminants, or other measures by staff, cooperative partnerships, or contractual agreements to obtain scientific knowledge about the northern Everglades ecosystem to aid in its conservation, management, and restoration.

(D) Introducing prescribed, controlled fire to assist in the removal of invasive or exotic plants and to mimic the natural, historical occurrence of fire to help manage and restore the northern Everglades ecosystem.

(E) Construction, operation, and maintenance of such canals, ditches, and subimpoundments as may be deemed necessary by the Service for the purposes of creating conditions suitable for wildlife species using the area, provided that such construction, operation, and maintenance shall be consistent with the objectives of water management and other associated purposes of the License Lands.

(F) Wildlife-dependent recreational uses that are compatible with the purposes for which the refuge was established (*e.g.*, hunting, fishing, environmental education, interpretation, wildlife observation and nature photography).

(G) Existing recreational facilities, or those to be developed, shall be operated, maintained, and administered according to the following principles and objectives:

(1) The recreational facilities, developed after determination by the Refuge Manager to be appropriate, compatible, and wildlife-dependent, shall be available for the use and benefit of the general public.

(2) Establish public fishing and hunting seasons if the Refuge Manager, through sound scientific judgment by inventorying, monitoring, or research, determines that certain

populations of fish or other wildlife may be fished or hunted. The Refuge Manager shall, after consultation with the, Florida Fish and Wildlife Conservation Commission, establish the areas that are open to public hunting or fishing, if any.

(3) Fees charged for the use of the facilities, including hunting and fishing, shall be reasonable, non-discriminatory, and in accordance with fees charged by similar lands in the National Wildlife Refuge System.

(4) All recreational facilities that may be developed in the future shall be located where their use will not interfere with the use of the land for water management purposes.

(H) The Refuge is in a unique position to serve as a focal point for education about the Everglades and Everglades restoration activities. The Service shall design and implement public education programs for both youth and adult audiences, including schools, local businesses, and community organizations. If requested by the Service, the District will cooperate with Service in training any tour guide concessionaires to enhance Refuge visitors' experience and knowledge about Everglades-related issues.

4. To facilitate efficiencies and accountability with respect to management of the License Lands, the Service has adopted a Comprehensive Conservation Plan and established, in cooperation with the District, performance goals further described below.

(A) The Service has completed the Arthur R. Marshall Loxahatchee National Wildlife Refuge Comprehensive Conservation Plan, dated September 8, 2000 (hereinafter referred to as the "Plan"), incorporated herein by reference and made a part hereof. The Plan contains specific projects, goals, objectives, and strategies to achieve the goals. The Service shall comply with and implement the Plan and any subsequent amendments to the maximum extent practicable, taking into account costs, appropriations and other available resources, existing technology, and logistical concerns.

(B) The Service shall update the Plan every fifteen years, or such other period as may be provided by federal law. The Service shall provide for public meetings for public review and comment on proposed updates of the Plan in accordance with Federal law. In addition, at least every 5 years from the Date of this License, the Service shall hold public meetings on the progress in implementing the Plan.

(C)(1) The Service has prepared, in cooperation with the District, performance measures and performance goals, and an exotic species control plan, all attached to this License as Exhibit "C," made a part hereof, to track the Service's progress in meeting the Plan's goals and objectives. No later than July 1 of each year, the Service shall complete a written report for public review that documents and tracks its progress in achieving performance goals during the preceding calendar year, and whether performance measures have been met. For performance measures not met, the report shall identify a schedule of action(s) to be implemented to address the performance measures not met. The report shall also be submitted to the District for its review with an additional copy forwarded to the Florida Department of Environmental Protection, Division of State Lands.

Any change to the performance measures or goals requires the prior written approval of both the Refuge Manager and the District's Executive Director, or their designees.

(2) The parties recognize that with respect to the control of exotic species there may be contributing factors beyond the control of the Service, such as water management decisions regarding water levels or water flow within the License Lands made by the U.S. Army Corps of Engineers or South Florida Water Management District, or such as uncontrollable natural events, including wild fires, hurricanes, droughts, and floods, that may impede or delay the Service in meeting performance measures and achieving performance goals.

Article III. Additional Terms Applicable to Service's Use of the License Lands

1. The Service shall assume and defray all costs, charges, expenses, and other obligations, incident to the Service's use of the License Lands. The Service shall not be responsible for costs, charges, expenses, or damages incurred by U.S. Army Corps of Engineers or the District incident to the primary use of the License Lands by U.S. Army Corps of Engineers or the District.

2. The Service shall maintain the License Lands in good condition and repair, making all repairs and replacements of improvements or facilities necessary caused by deterioration, damage, use, negligence, or any other cause attributable to the Service, and shall not remove any improvements or facilities or alter any major improvements or facilities installed by the District or by the U.S. Army Corps of Engineers without the prior written consent of the District. The Service shall obtain the District's advance approval in writing with regard to proposed construction or maintenance activity on the License Lands levee or levee roads.

3. The Service shall not, except with the written consent of the District, erect structures or dwellings within License Lands.

4. The Service may use stone, marl, sand, or peat and similar substances on the surface of the License Lands provided such materials are used for construction purposes upon or in connection with the such lands and such use is consistent with the Plan.

Article IV. Primary Use of the License Lands

1. This License constitutes permissive use only and Service agrees that it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the License Lands, by virtue of this License or its occupancy or use hereunder. The District and the Board of Trustees reserve all rights, title, and interest in and to the License Lands and use of the License Lands as provided herein. The District's and Board of Trustees' use of the License Lands are the primary uses of the lands. In the event of any conflict between such use and use by the Service, the District's and Board of Trustees' use shall be paramount. The Service shall not be responsible to the extent, if any, that primary uses of the License Lands by the District or State adversely affect the Service's ability to achieve the performance measures and goals required in Article II, section 4(C). The Service shall not use or permit to be used the License Lands for any purpose which is inconsistent

or incompatible with the primary uses set forth in this Article IV. Notwithstanding any other provision of this License that may be to the contrary, any conflict between the primary uses of the License Lands by the District or Board of Trustees and use of the License Lands by the Service may be the basis for the termination of this License by the District or the Board of Trustees under the procedure set forth in Article VIII, section 7. If such use or other factors affect adversely the value of the License Lands to the extent the Service cannot manage them consistent with its obligations under the National Wildlife Refuge System Administration Act, the Service may terminate this License for convenience under the procedure set forth in Article VIII, paragraph 7.

The parties acknowledge that surface and ground water resources within the License Lands are managed by the District as part of the regional water management system under a water regulation schedule developed by the District and the U.S. Army Corps of Engineers in consultation with the Service. The Service further acknowledges that its use of the License Lands is specifically subject to this water regulation schedule and to any future modifications to the water regulation schedule, including modifications that may result from implementation of the Comprehensive Everglades Restoration Plan.

2. Uses reserved by the District and the Board of Trustees on License Lands are as follows:

(A) (1) water resource development and water resource use, (2) water management, (3) water supply development and water supply use, (4) maintenance of water quality standards within the refuge, (5) flood control, (6) conservation and exotic species control, (7) Everglades restoration, (8) wetland restoration, (9) to implement the Comprehensive Everglades Restoration Plan approved by Congress in section 601 of the Water Resources Development Act of 2000, Pub. Law 106-541, including but not limited to the Loxahatchee National Wildlife Refuge Internal Canal Structures Project, (10) to implement the Everglades Construction Project, (11) uses authorized by state law or regulation that are consistent with the purposes of the refuge and applicable refuge regulations, and (12) other allied purposes. Such uses include but are not limited to construction, implementation, operation, maintenance, rehabilitation, and replacement of a project or projects for one or more of the above uses and may be undertaken by the District, the Board of Trustees, or with the U.S. Army Corps of Engineers. Such projects may specifically include, but are not limited to, Levee 101 and its associated borrow canal, S-5A and S-6 pump stations, Stormwater Treatment Areas 1W and 1E, structures S-10A, C, D, E, and S-39, and associated structures and improvements, and installation of water control structures in the northern portion of the perimeter canal. The parties acknowledge that on-going efforts to improve the system-wide performance of the Comprehensive Everglades Restoration Plan may include further additional projects or operational changes to more effectively reduce the adverse ecological effects caused by compartmentalization of the remnant Everglades system;

(B) Wildlife and invasive species inventories;

(C) Water resource monitoring and data collection for surface and groundwater quantity and quality, including seepage meter studies, sediment and water quality investigations, and gradient studies;

(D) Installation of wells and data collection equipment;

(E) Scientific research.

3. The District and the Board of Trustees and their employees, agents, representatives, and contractors may access and use the License Lands for official use purposes without Service permission or a Service permit. Before any entry by the District or the Board of Trustees and their employees, agents, representatives, and contractors onto the License Lands other than access along the WCA-1 levee or levee roads, the Refuge Manager shall receive at least 48 hours advance notification for coordination and collaboration purposes, unless it is an emergency situation. The notification shall identify the purpose, duration, and location of the access and use.

Article V. Cooperation

1. The parties will use their best efforts to coordinate and collaborate on water resource monitoring, data collection, and scientific research within License Lands, including the placement of equipment within License Lands for such purposes. The parties shall offer to split samples of rain, surface water, groundwater, sediment, plants, animals or other materials taken. The parties shall share data obtained after completing internal quality control review and the reports prepared based on such data.

2. The parties shall use their best efforts to coordinate during droughts, floods, and other emergency situations to benefit public safety and welfare. The District shall assist the Service in its efforts to seek additional sources of funds for exotic species control.

3. Acknowledging that the primary purposes of Water Conservation Area 1 may not be impeded, the parties will cooperate in carrying out their respective activities to avoid potential conflicts.

Article VI. Term of the License; Termination

1. The term of this License shall commence on the date of this License and end on December 31, 2052.

2. Upon the expiration or termination of this License:

(A) The Service shall quietly and peacefully vacate those License Lands for which the License has expired or terminated, and surrender possession thereof, and the District may immediately, or at any time thereafter, re-enter and take possession of such lands and remove all persons therefrom; and

(B) The Service shall have the right to remove, within a time period agreed to by the parties after expiration or termination, only those improvements which have been erected exclusively with Service funds, including donated funds or property, provided, however, that no such right for removal shall extend to, or include, any works constructed by the Service as part of the water management system. To the extent practical, the Service shall restore the land on which the improvements have been removed.

Article VII. Availability of Funding

The obligations of the Service under this License are subject to the availability of future appropriations by Congress and the Service cannot be compelled to commit or expend funds that have not been appropriated. The Service shall use its best efforts to obtain appropriations adequate to support the performance of its obligations under this Agreement, including but not limited to meeting performance measures and achieving performance goals as set forth in Article II, section 4 of this License.

Article VIII. Miscellaneous Provisions

1. Title Encumbrances/No Liens. This License is subject to all valid easements, rights-of-way, licenses, and outstanding rights, title, and interest or encumbrances that may affect the District's rights, title, or interest in the License Lands. The District makes no representation or warranty with regard to the title to or the condition of the License Lands. The Service shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the License Lands including, but not limited to, mortgages, construction liens against the License Lands or against any interest of the District or Board of Trustees.
2. Congressional Limitation. No member of or delegate to Congress shall be admitted to any share or part of this License, or any renewal thereof, or to any benefit to arise therefrom.
3. Notification of Certain Events. Each party shall notify the other in writing within 48 hours of receipt of a notice of violation of Federal, Florida or its political subdivisions law, rules, or regulations with regard to its use of the License Lands, including the release of pollutants or contaminants on such lands, or into the waters that are or could be discharged into the License Lands.
4. Insurance. The Service shall require that all Service contractors and subcontractors are adequately insured in accordance with Department of Interior requirements for contractor and subcontractor insurance. The Service shall further require that contractors and subcontractors on the License Lands name the District, Board of Trustees, and the Florida Department of Environmental Protection, as an additional insured party on such required insurance.
5. Records Retention. The Service shall keep records with regard to its use of the License Lands in accordance with U.S. Department of Interior rules and regulations and make such records available to the District upon request.
6. Property Damage or Injury. The Service assumes all risk of personal injury and property damage attributable to negligence or intentional torts of the Service and its employees, but only to the extent provided by Federal law. The District shall be responsible for the consequences of its acts or omission, and those of its employees, agents, invitees, licensees, contractors, or representatives, but only to the extent provided by Florida law.
7. Default. With regard to the Service's failure to meet performance measures and goals or if a party fails to substantially perform any other obligation under this License in a timely and

proper manner and as provided in Article IV, Paragraph 1, the District or the Service, as the case may be, will notify the other in writing ("First Notice"). The parties shall then meet within twenty-one (21) days after receipt of the First Notice. If problems remain unresolved following this meeting, the District or the Service must reduce those problems to writing and allow the other sixty (60) days from receipt of notice ("Second Notice") to respond in writing. If the response does not provide information reasonably satisfactory to the District or the Service that the party is in compliance or satisfactorily moving toward compliance, with compliance to occur no later than 90 days of receipt of the Second Notice, and prior to invoking default, termination or any other remedy, the parties shall consider arranging for mediation in accordance with Paragraph 8, below. If the parties do not choose to use mediation or do not resolve any differences after using mediation, the District or the Service shall have the right to terminate this License by giving written notice of the deficiency ("Third Notice") and allowing the party in default ninety (90) days from receipt of the Third Notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, this License shall terminate at the expiration of said period at the option of the complaining party.

8. Mediation. In the event a dispute arises which the parties cannot resolve themselves, the parties shall have the option to submit to non-binding mediation. The mediator(s) shall be impartial, selected by the parties, and the cost of mediation shall be borne equally by the parties. The mediation process shall be confidential to the extent permitted by law.

9. Compliance with Law. The Service and its respective officers, employees, contractors, subcontractors, agents, and representatives shall comply with all applicable federal, state, and local laws, regulations, including permitting requirements, relating to the performance of this License.

10. Jurisdiction. The laws of the State of Florida shall govern all aspects of this License, except to the extent Federal law preempts state law as to any issue.

11. Public Records. The parties acknowledge that all documents provided to the District under this License are subject to the provisions of Chapter 119, F.S., which pertains to public records disclosure. Should the Service assert any exemptions to the requirements of Chapter 119 and related statutes, the burden of establishing such exemption shall be upon the Service through appropriate relief as provided by law.

12. Independent Contractors. The parties have the relationship of independent contractors and are not employees or agents of the other. Nothing in this License shall be interpreted to establish any relationship other than that of independent contractor, between the parties, their employees, agents, subcontractors, or assigns during or after the performance of this License.

13. Assignment. This License is personal to the Service and the Service shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this License nor grant or create any rights in favor of third persons with respect to the License Lands without the prior written approval of the District and the Board of Trustees. Any attempted assignment in violation of this provision shall be void. If either party's duties and rights are assumed by a successor agency, or if either party is renamed, the successor or renamed agency shall take the place of the named party, and

the creation of the successor or renamed agency shall not be considered an assignment, delegation, or transfer.

14. No Third Party Benefit. It is the intent and understanding of the Parties that this License is solely for the benefit of the Parties in fulfilling their duties under State or Federal law. No person or entity other than the Parties shall have the power to enforce the terms of this License and no person or entity other than the Parties shall have any rights or privileges under this License in any capacity whatsoever, either as a third-party beneficiary or otherwise.

15. Conflicts. Except as otherwise specifically provided in this License, in the event any provisions of this License shall conflict, or appear to conflict, the License, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.

16. Waiver. Failures or waivers to insist on strict performance of any covenant, condition, or provision of this License by the Parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this License. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this License specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

17. Invalidity. Should any term or provision of this License be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this License, to the extent that the License shall remain operable, enforceable and in full force and effect to the extent permitted by law.

18. Amendment. This License may be amended only with the written approval of the Parties.

19. Savings Provision. Nothing in this License precludes either party from asserting positions with regard to water quality or water management conditions in License Lands, including changes to the water regulation schedule for License Lands developed by the District and the U.S. Army Corps of Engineers in consultation with the Service.

20. Entire Understanding. This License states the entire understanding and License between the Parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the Parties with respect to the subject matter of this License. The Parties recognizes that any representations, statements or negotiations made by another party do not suffice to legally bind the other parties in a contractual relationship unless they have been reduced to writing and signed by an authorized representative of the Parties. This License shall inure to the benefit of and shall be binding upon the Parties, their respective assigns, and successors in interest.

21. Notice. Any notice, request, demand, instruction, or other communication to be given to the Parties hereunder at the address stated below shall be in writing and shall be delivered, at the election of the party giving such notice, by 1) hand or by commercial courier (2) any form of overnight mail service, 3) registered or certified mail, return receipt requested, or 4) by telefax or facsimile.

District

The South Florida Water Management District
3301 Gun Club Road

West Palm Beach, Florida 33406
Attention: Director
Land Stewardship Division
Telefax: (561) 682-5635

Service

Refuge Manager
ARM Loxahatchee National Wildlife
Refuge
U.S. Fish and Wildlife Service
10216 Lee Road
Boynton Beach, FL 33437-4796
Telefax: (561) 732-3684

Each such notice shall be deemed delivered: 1) on the date of actual receipt, if by personal delivery, 2) one day after mailing by any form of overnight mail service, 3) on the date upon which return receipt is signed by registered or certified mail, return receipt requested or, if delivery is refused, or if the notice is designated by postal authorities as not deliverable, as the case may be, then on the date when mailed, and 4) on the date of transmission by telefax or facsimile with confirmed receipt.

22. Counterparts. This License may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile copy of this License and any signatory hereon shall be considered for all purposes as original.

23. Time is of the Essence. Time is of the essence with respect to performance under this License.

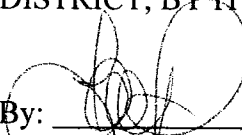
24. Interpretation. This License shall be interpreted without regard to any presumption or other rule requiring interpretation against the party causing this License or any part hereof to be drafted or otherwise requiring interpretation against one party or the other.

25. Archaeological and Historic Sites. Execution of this License in no way affects any of the Parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the Division of Historical Resources of the Department of State.

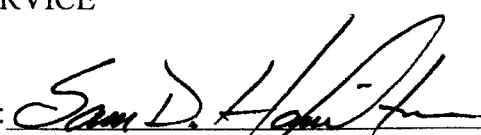
IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first written above. Each signatory represents that he or she has authority to execute this License on behalf of his or her agency.

ATC

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

By: 
As Its: Trudi K. Williams, Chairman

UNITED STATES FISH AND WILDLIFE
SERVICE

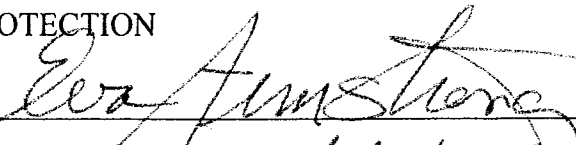
By: 
As Its: Southeast Regional Director

CONSENT

The Board of Trustees owns lands or interests in lands within the areas that are the subject of this License. The Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees, hereby consents to this License.

Date: 7-2-02

FLORIDA DEPARTMENT OF ENVIRONMENTAL
PROTECTION

By: 
As Its: Division of State Lands Director

LEGAL FORM APPROVED
SFWMDC OFFICE OF COUNSEL

BY Alex Cooper DATE 6/13/2002

APPROVED AS TO FORM AND LEGALITY
By: Gary L. Heiser
Gary L. Heiser, DEP Attorney
Date: 7/1/02

ATC

Exhibit "A"
Description
Loxahatchee National Wildlife Refuge

(1) Township 44 South, Range 39 East, Palm Beach County, Florida:

All that part of Sections 12, 13, 14, 23, 24, 26, 27 and 34, lying East of the West toe of slope of Levee L-7, AND all of Sections 25, 35 and 36.

TOGETHER WITH:

(2) Township 44 South, Range 40 East, Palm Beach County, Florida:

All that part of Sections 4, 5, and 6, lying South of the Northerly toe of slope of the Storm Water Treatment Area No. 1 Inflow And Distribution Works Separation Levee AND all that part of Sections 6 and 7 lying East of the West toe of slope of Levee L-7, all that part of Sections 4, 9, 15, 16, 22, 23, 24, and 25, lying West of the East toe of slope of Levee L-40; AND all of Sections 8, 17, 18, 19, 20, 21, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36.

TOGETHER WITH:

(3) Township 44 South, Range 41 East, Palm Beach County, Florida:

All that part of Sections 30, 31 and 32, lying West of the East toe of slope of Levee L-40.

TOGETHER WITH:

(4) Township 44-45 South, Range 39 East, Hiatus, Palm Beach County, Florida

All that part of Lot 3 lying East of the West toe of slope of Levee L-7, AND all of Lots 1 and 2.

TOGETHER WITH:

(5) Township 44-45 South, Range 40 East, Hiatus, Palm Beach County, Florida

All of Lots 1, 2, 3, 4, 5 and 6.

TOGETHER WITH:

(6) Township 44-45 South, Range 41 East, Hiatus, Palm Beach County, Florida

All of Lots 4, 5, lying West of the East toe of slope of Levee L-40, AND all of Lot 6.

TOGETHER WITH:

ARC

(7) Township 45 South, Range 39 East, Palm Beach County, Florida:

All that part of Sections 3, 10, 15, 22, 27 and 34, lying East of the West toe of slope of Levee L-7 AND all of Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36;

TOGETHER WITH:

(8) Township 45 South, Range 40 East, Palm Beach County, Florida:

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.

TOGETHER WITH:

(9) Township 45 South, Range 41 East, Palm Beach County, Florida:

All that part of Sections 3, 4, 9, 10, 14, 15, 23, 26 and 35, lying West of the East toe of slope of Levee L-40, AND all of Sections 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34.

TOGETHER WITH:

(10) Township 45 ½ South, Range 39 East, Hiatus, Palm Beach County, Florida:

All that part of Lot 3 lying East of the West toe of slope of Levee L-7, AND all of Lots 1 and 2.

TOGETHER WITH:

(11) Township 45 ½ South, Range 40 East, Hiatus, Palm Beach County, Florida

All of Lots 1, 2, 3, 4, 5 and 6.

TOGETHER WITH:

(12) Township 46 South, Range 40 East, Palm Beach County, Florida.

All that part of Sections 30, 31 and 32, lying Northeasterly of the Southwesterly toe of slope of said Levee L-39, AND all of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, and 36.

TOGETHER WITH:

(13) Township 46 South, Range 41 East, Palm Beach County, Florida.

All that part of Sections 2, 11, 14, 23, 26, 34 and 35, lying West of the East toe of slope of Levee L-40, AND all of Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32 and 33.

ATC

TOGETHER WITH:

(14) Township 46 South, Range 39 East AND Township 47 South, Range 40 East, Palm Beach County, Florida.

All Sections situate in Township 46 South, Range 39 East AND Township 47 South, Range 40 East, lying Northerly and Northeasterly of the following described line:

Commence at the Northeast corner of Section 13, Township 47 South, Range 40 East, Palm Beach County, Florida; Thence,

South $00^{\circ}03'48''$ East, along the East line of said Section 13, a distance of 3078.95 feet to the Southeasterly projection of the physical center line of South Florida Water Management District's Levee L-39; Thence,

North $71^{\circ}55'25''$ West, along said projection, a distance of 278.71 feet to the Northerly projection of a line which approximates the Easterly toe of South Florida Water Management District's Levee L-36 and the POINT OF BEGINNING; Thence,

South $00^{\circ}00'00''$ West, along said projection and said line which approximates the Easterly toe of said Levee L-36, a distance of 577.00 feet; Thence,

North $90^{\circ}00'00''$ West, a distance of 121.67 feet to the toe of slope of Levee L-36 borrow canal; Thence,

North $02^{\circ}35'34''$ West, along toe of slope, a distance of 208.14 feet; Thence,

North $04^{\circ}11'03''$ East, continuing along said toe of slope, a distance of 257.50 feet more or less, the intersection with the Southerly toe of slope of SFWMD Levee L-39; Thence,

Northwesterly along said southerly toe of slope of said Levee L-39 to the intersection with the Southwesterly prolongation of the Southeasterly face of the superstructure of SFWMD Pump Station S-6; Thence,

Northeasterly along said prolongation and said Southeasterly face to the most Easterly corner of said superstructure; Thence,

Northwesterly along the Northeasterly face of said superstructure and the Northeasterly wingwall of said Pump Station S-6, to the Southerly prolongation of the Westerly toe of slope of the SFWMD Levee L-7; Thence,

Northerly along said Westerly toe of slope of Levee L-7 to the North line of Section 3, Township 46 South, Range 39 East.

TOGETHER WITH:

ATC

(15) Township 47 South, Range 41 East, Palm Beach County, Florida.

All that portion of Sections 3, 10, 15, 16, 17, 18 and 19, lying West and North of the Easterly and Southerly toe of slope of Levee L-40, AND all of Sections 4, 5, 6, 7, 8 and 9.

R:\Legals\wca\lnwr2001.lgl

April 5, 2001

Revised: December 4, 2001

Revised: May 30, 2002

LEGAL DESCRIPTION

May

30, 2002

Mary Ann Jones

ATC

LOXAHATCHEE NATIONAL WILDLIFE REFUGE

NORTHERLY TOE OF SLOPE OF
STA 21 INFLOW AND
DISTRIBUTION WORKS
SEPARATION LEVEE

980

T 44 R39

T 44 R40

WEST TOE OF
SLOPE L-7

EAST TOE OF
SLOPE L-40

WEST TOE OF
SLOPE L-7

T 44 R41

EAST TOE OF
SLOPE L-40

WEST TOE OF
SLOPE L-7

LEVEL L-7

T 45 R39

T 45 R40

T 45 R41

T 45 1/2 R39

WEST TOE OF
SLOPE L-7

T 45 1/2 R40

EAST TOE OF
SLOPE L-40

SOUTHWESTERLY PROLONGATION
OF SOUTHEASTERLY FACE OF
SUPERSTRUCTURE OF PUMP
STATION 3.5

T 46 R40

T 46 R41

T 46 R39

SOUTHWESTERLY TOE
OF SLOPE L-39

WCA #2

LEVEL L-39

EAST TOE OF
SLOPE L-40

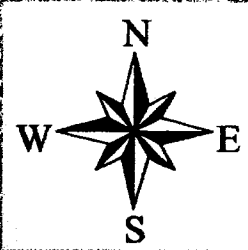
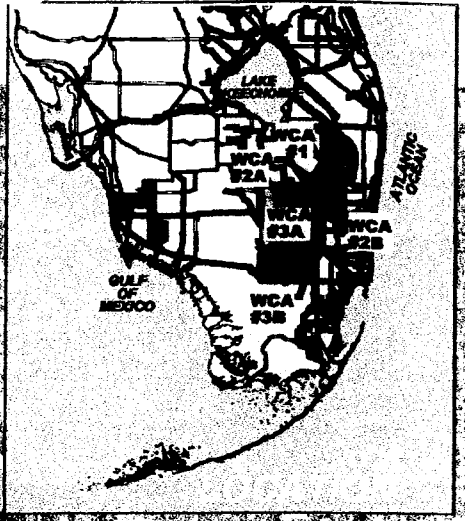
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OF SLOPE L-39

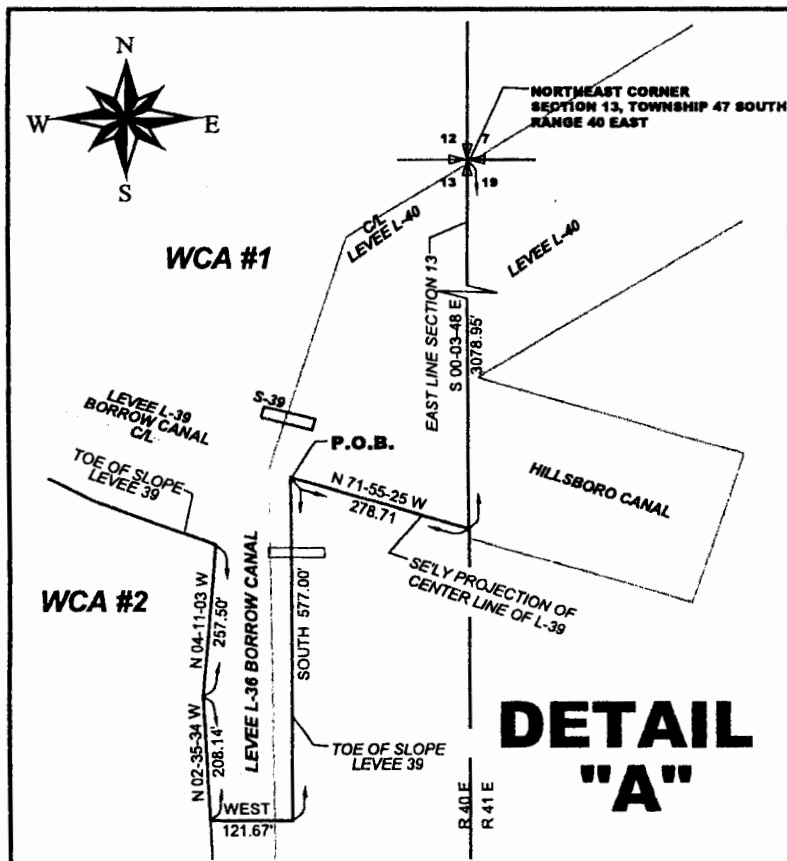
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T 47 R39

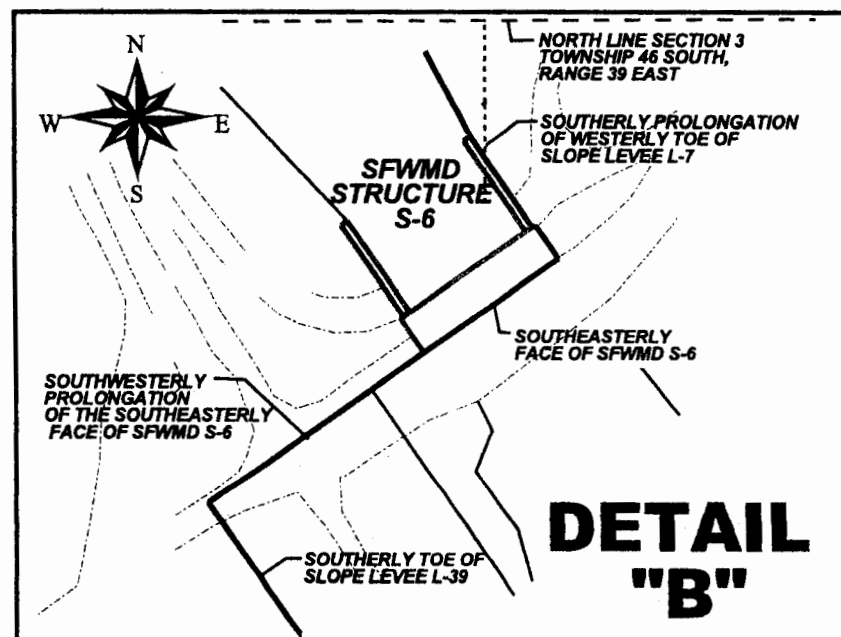
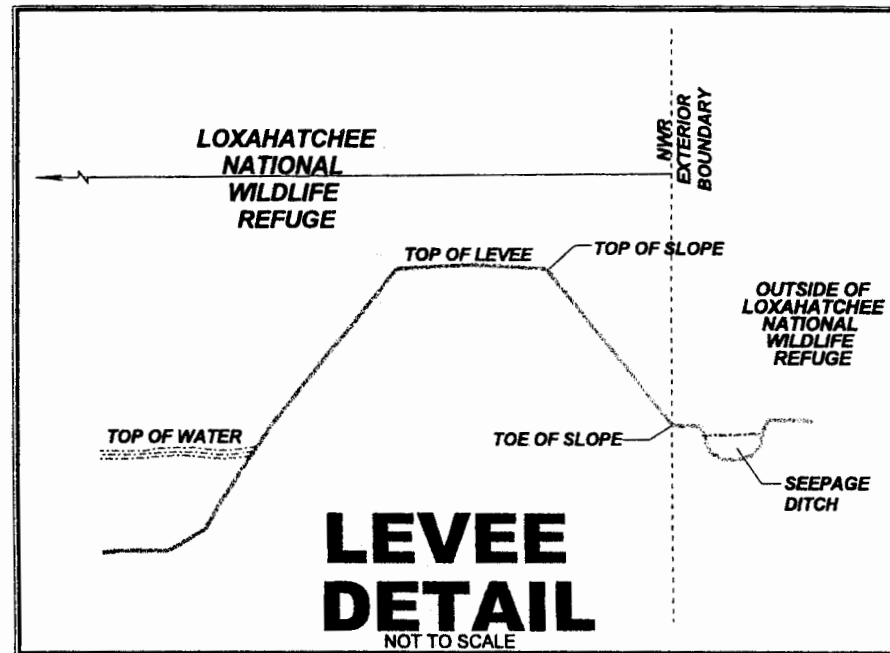
T 47 R40

T 47 R41





LOXAHATCHEE NATIONAL WILDLIFE REFUGE



LOXAHATCHEE NATIONAL WILDLIFE REFUGE

NORTHERLY TOE OF SLOPE OF
STA #1 INFLOW AND
DISTRIBUTION WORKS
SEPARATION LEVEE

880

T 44 R39

T 44 R40

WEST TOE OF
SLOPE L-7

EAST TOE OF
SLOPE L-40

WEST TOE OF
SLOPE L-7

T 44 R41

T 44-45

EAST TOE OF
SLOPE L-40

WEST TOE OF
SLOPE L-7

T 45 R39

T 45 R40

T 45 R41

WCA #1

EAST TOE OF
SLOPE L-40

T 45 1/2 R39

T 45 1/2 R40

WEST TOE OF
SLOPE L-7

SOUTHWESTERLY PROLONGATION
OF SOUTHEASTERLY FACE OF
SUPERSTRUCTURE OF PUMP
STATION S-6

T 46 R40

T 46 R41

T 46 R39

SOUTHWESTERLY TOE
OF SLOPE L-39

WCA #2

EAST TOE OF
SLOPE L-40

SOUTHWESTERLY TOE
OF SLOPE L-39

SOUTHERLY TOE
OF SLOPE L-40

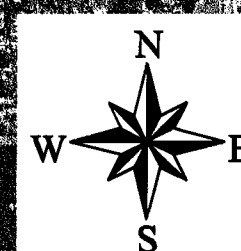
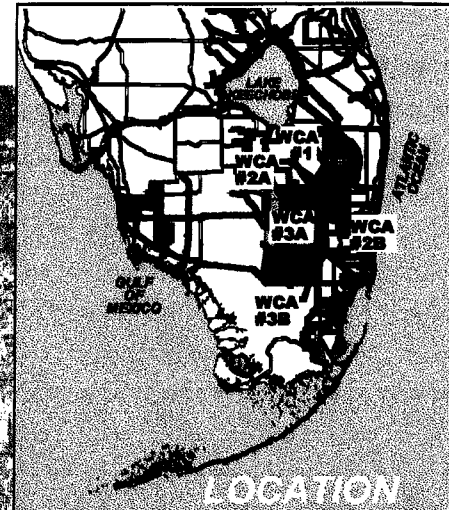
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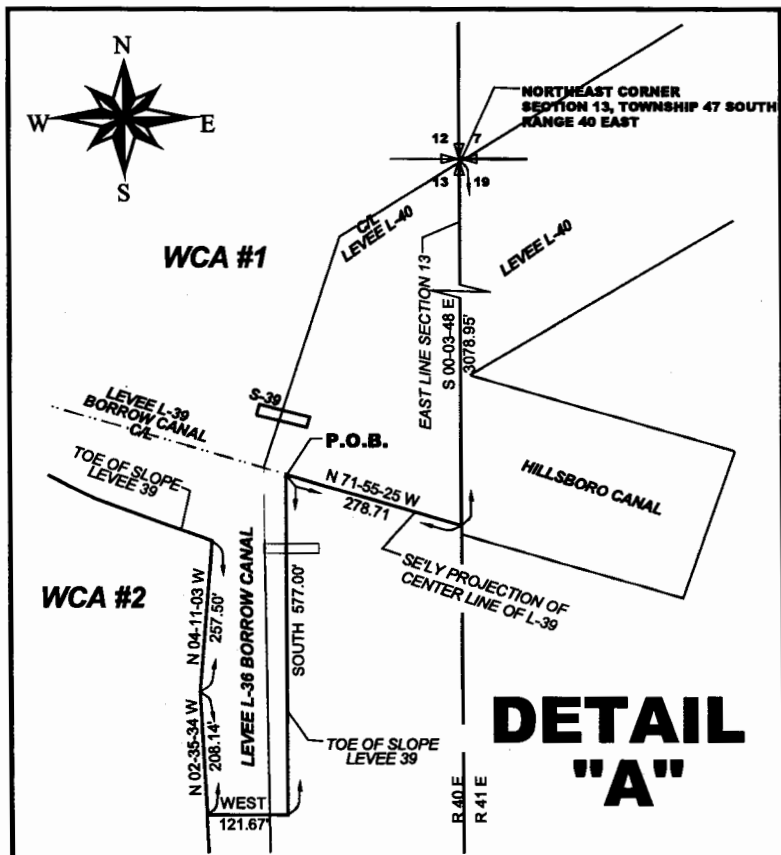
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EASTERLY TOE
OF SLOPE L-36

T 47 R41

LEVEE L-36





LOXAHATCHEE NATIONAL WILDLIFE REFUGE

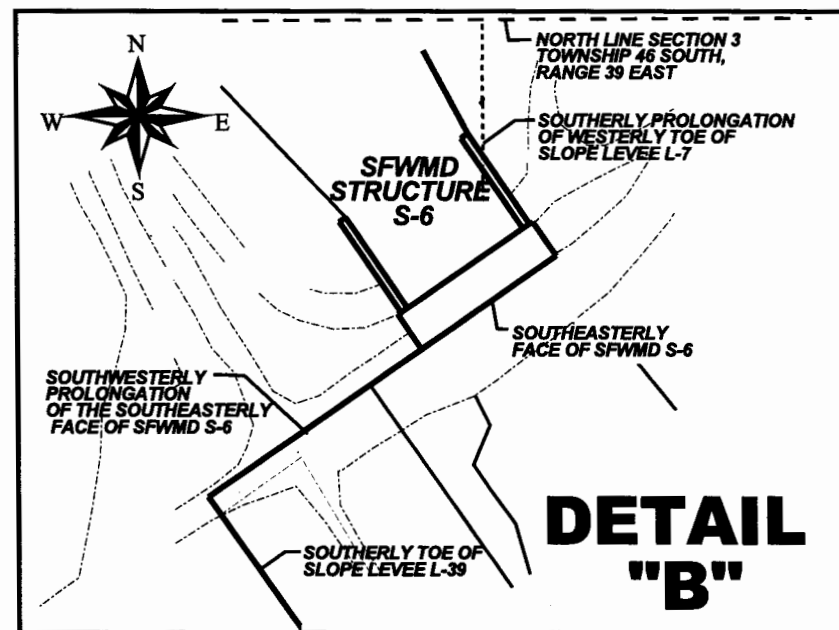
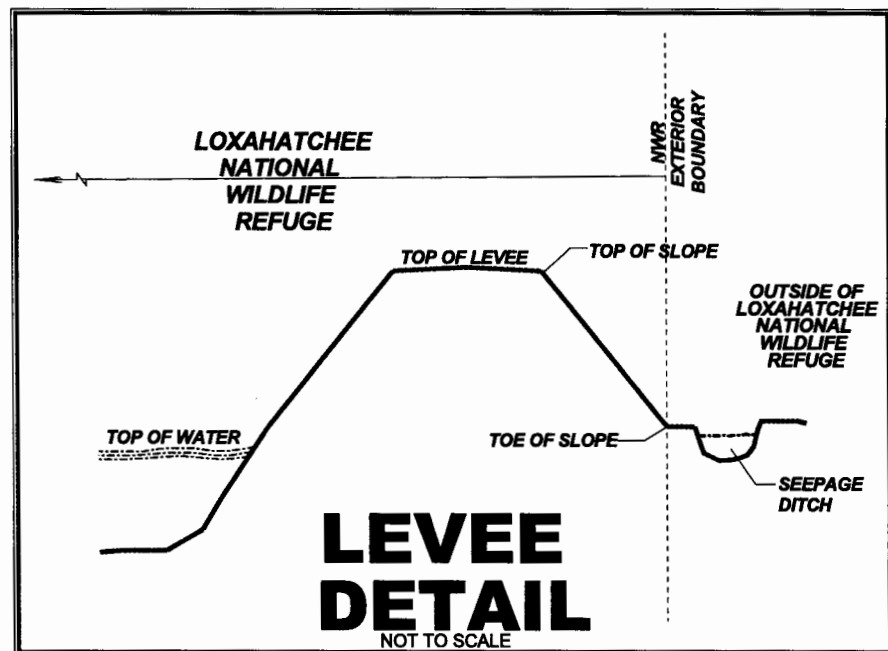


EXHIBIT "C"

ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE GOALS, STRATEGIES, AND PERFORMANCE MEASURES

In accordance with terms of the License Agreement Between the South Florida Water Management District and the U.S. Fish and Wildlife Service for the management of License Lands as part of the Arthur R. Marshall Loxahatchee National Wildlife Refuge, performance goals and measures are listed below. Consistent with the Refuge's Comprehensive Conservation Plan, these goals and measures will be used by the District in their periodic evaluation of the management of the License Lands.

- GOAL: 1. Implement and maintain a natural resources management program in WCA 1 that is consistent with and complementary to the water resources management as required by the Everglades Forever Act and the Comprehensive Everglades Restoration Plan. (WMD)**
- Strategy. Meet with SFWMD & COE at regular intervals to discuss water operations.
 - a) Performance Measure. Meet at least quarterly with SFWMD to actively participate in operational discussions to assist SFWMD and Corps with water resource management decisions, including drought and flood management as well as compatibility with the Comprehensive Everglades Restoration Plan.
- GOAL: 2. Maintain and restore integrity of the Everglades habitat within WCA 1 with particular attention to control of invasive exotic plants and protection of tree islands. (WMD)**
- Strategy. Use available measures such as prescribed fire and exotic control to enhance WCA 1 habitats
 - a) Performance Measure. Implement existing fire management plan and update at 5-year interval
 - b) Performance Measure. Complete and implement integrated exotics management plan (2002) which includes annual management strategies for Melaleuca, Old World climbing fern, Brazilian pepper and Australian pine, and update at 5-year interval
 - Strategy. Acquire dedicated funds to conduct exotics control.
 - a) Performance Measure. Demonstrate efforts to obtain funding for exotics control.

- Strategy. Monitor and document coverage of exotic plant species in coordination with regional efforts.
 - a) Performance Measure. Conduct Systematic Reconnaissance Flight survey every two years.
- Strategy. Achieve and sustain maintenance level control of Melaleuca, Old World climbing fern, Brazilian pepper and Australian pine within 15 years.
 - a) Performance Measure. Percentage of infestation at sustain maintenance control will meet or exceed the following schedule:

Species	Year 2007	Year 2012	Year 2017
Melaleuca	20%	75%	100%
Old World climbing fern	10%	50%	100%
Brazilian pepper	20%	50%	100%
Australian pine	100%	100%	100%

GOAL: 3. Facilitate regular monitoring and research to assess the condition of the area, including water and soil chemistry parameters, as well as key biological indices. (WMD)

- Strategy. Maintain a policy of open research and monitoring opportunities.
 - a) Performance Measure. No less than 95% percent of special use research permits that meet refuge criteria that are approved.
- Strategy. Meet with cooperators, universities, and agencies to discuss research and monitoring on the Refuge.
 - a) Performance Measure. Facilitate annual meeting/workshop, on or before October 1, each year.
- Strategy. Ensure research and monitoring to document and assess tree island and wildlife sustainability.
 - a) Performance Measures. Complete research and monitoring plan, which includes tree island hydroperiod, fire, and exotic control issues by 2003.
 - b) Performance Measure. Implement an update research and monitoring plan at 5-year interval.

GOAL: 4. Maintain a diverse public recreation program that includes limited access to the interior. (WMD)

- Strategy. Maintain a policy of collaborative public awareness and environmental education.

- a) Performance Measure. Conduct an annual Everglades Day festival.
- Strategy. Increase public awareness of the role that the Refuge plays in the Everglades Ecosystem and CERP.
 - a) Performance Measure. Develop, implement and update at 5-year intervals an environmental education plan by December 2002.
- Strategy. Expand and maintain compatible wildlife dependant recreational opportunities
 - a) Performance Measure. Maintain canoe trails free of access limiting vegetation 95% of the year.