

# **LAKE BELT MITIGATION COMMITTEE**

## **Meeting Summary**

Hyatt Regency Miami Hotel

400 SE Second Avenue, (Orchard C Conference Room)

Miami, Florida

**This meeting will be conducted as a teleconference**

Meet-me number 850-921-5510 (suncom 291-5510)

October 2, 2002 9:00 a.m.

### **1. Call to Order**

- a) Meeting delayed due to traffic congestion in downtown Miami.
- b) Meeting began at 9:30 AM.

### **2. Opening Comments**

#### **a) Committee Members**

- a. Janet Llewellyn, DEP, Committee Chair
- b. Terrie Bates, SFWMD, Committee Vice Chair
- c. Jean Evoy, DERM
- d. Stephen Lau, FF&WCC, (absent)
- e. Tom MacVicar, MF&L (Non-voting)

#### **b) Other meeting attendees**

- a. Tom Olliff, SFWMD
- b. John Studt, COE
- c. Susan Kaner, COE
- d. Connie Wolf, COE
- e. Jeff Rosenfeld, MF&L
- f. Anita Bain, SFWMD
- g. Al Townsend, Tarmac
- h. Donald Blake, Land Owner Representative
- i. Madeline Forton, Land Owner Representative

#### **c) Call in attendees**

- a. Jim Jackson, SFWMD
- b. Veronica Fasselt, EPA
- c. Howard Hayes, DEP-Mine Reclamation

- d. Frank Bernadino, SFWMD
  - e. Luna Phillips, SFWMD
3. Approval of Minutes from July 12, 2002 meeting
- a) Corrections included:
    - 1) Jeff Rosenfeld expressed concern about the minutes needing clarification regarding the balance in the LBM Fund and the conversion to land purchases at \$6,142.00/acre. Terrie Bates stated that her presentation scheduled for later in the meeting should address his concerns and provide clarification of the funding vs. acreage issues. Jeff indicated that no changes were necessary to the meeting summary, pending Terrie's presentation.
    - 2) Jeff Rosenfeld wanted assurance that currently owned mining industry acres within Pennsuco, would only be purchased from the Miner's Trust Funds, not from Developer's Funds. Terrie assured Jeff that there were no plans to buy industry land with developer's funds and indicated this would be addressed in her later presentation.
4. Status of Land Acquisition and Mitigation in Pennsuco
- a) Tom Olliff
    - 1) Last 12 months purchased 45 acres
    - 2) The Nature Conservancy (TNC) has 100 acres under contract
    - 3) **ACTION 1** – Tom to verify the 100 acres going to the Board for purchase are being purchase with Developer's and/or Miner's funds. It was generally agreed that if the contracts were after the July 12<sup>th</sup>, 2002 Committee that the purchases should be split 50 / 50 with Developer's and Miner's funds.
  - b) Terrie Bates Summary – Developers / Miners (See Worksheet)
    - 1) **ACTION 2** – SFWMD IG to perform internal audit of LBM Fund & DOR collection and remittance processes. Terrie to follow up with Inspector General on scope, timing and final reporting of this audit.
    - 2) Acres acquired to date = 1,788 (assigned to developers)
    - 3) Acres paid / obligated at \$6,142/acre before potential funding swap
      - i. Miners – 1,024 (\$6,292,286 / \$6,142) The \$6,292,286 represents the DOR collections through July 2002. The Trust Fund also includes earned

interest and the acreage calculation will include the interest earned through July 31, 2002. (**Note 1**)

ii. Developers – 906

- 4) No additional funds are to be accepted from Developers for Pennsuco mitigation. All future purchases will be split 50-50 between the Developer's and Miner's funds, until the developer's obligation has been met. After that has been accomplished, all Pennsuco purchases will be made using the Miner's fund.
- 5) **ACTION 3** - Funding Swap with Prior Land Mitigation Purchases – Terrie distributed a copy of FS 373.41492 (6) (a) that discusses allowable uses of Trust Fund accumulations. One possible use is the swapping of 814 acres of prior P2000 land acquisitions with current mitigation dollars. P2000 funds would be restored to their original accounts for later land acquisitions. Terrie indicated the SFWMD IG considered this swap acceptable, as long as the Board was advised and approved in advance.
- 6) **ACTION 4** – Terrie will have the District's legal counsel investigate the possibility of redirecting federal 50 / 50 cost share funds used to purchase mitigation lands within Pennsuco and substitute Miner's funds for these acquisitions.
- 7) Terrie displayed a Pennsuco map detailing approximately 2,350 acres of Industry owned lands and 2,250 acres of privately owned land. Marjorie Moore had distributed this map, dated March 18, 2002, at the July 12, 2002 meeting.
- 8) City National land, with approximately 1,250 acres, has unknown land costs at this time due to a pending lawsuit. Currently \$2 million has been expended for this land from the Developer's trust funds. Final disposition, and funding allocation, is pending based upon the outcome of the existing lawsuit. This land could be purchased with combination of Developer's, Miner's & P2000 funds.
- 9) Potential Funding Swap:  $814 \text{ acres} / 2 = 407 \text{ Developers} / \text{Miners}$
- 10)  $1,116 \text{ acres paid} / \text{obligated to be purchased at } \$6,142/\text{acre}$ 
  - i. Miners – 617
  - ii. Developers – 499

5. Status of Trust Fund and Mitigation Credits in Pennsuco
  - a) Florida Department of Revenue fee collections are \$6,292,286 as of July 31, 2002. The SFWMD Trust Fund includes interest of \$315,691 (**Note 2**)
  - b) Acres to purchase for Miners at \$6,142/acre = 1,075.9 acres (\$6,607,977 / \$6,142)
  - c) Need DOR contact – DOR has not withheld 3% Administrative Fee on remittances to the SFWMD (**Note 3**).
6. Alternatives / Locations for Mitigation Credits
  - a) Funding Swap of Mitigation dollars for P2000 dollars.
  - b) **ACTION 5** – Marjorie Moore & Anita Bain, SFWMD, will compile a listing and map of total available State, County, District & Private lands within the Service Area available for mitigation credit. The listing should include completed, available or potentially available lands. This information is scheduled for discussion at the next Committee Meeting, January 30, 2003.
  - c) **ACTION 6** – John Studt, COE, to work with District, DERM and DEP representatives to determine if it is plausible to exchange Restoration Mitigation Costs for Land Acquisition Acres. This exchange would provide offsetting mitigation credits that qualify for Lift Compliance as required for the COE Mining Industry permits.
  - d) **ACTION 7** – Individuals listed below are to gather information regarding availability of public and private lands available for restoration or land swaps. This information is to be forwarded to Marjorie Moore and Anita Bain.
    - a. Janet Llewellyn – State owned lands
    - b. Jean Evoy – County owned lands
    - c. John Studt – Federal / COE lands
    - d. Terrie Bates – DSL lands
    - e. Jeff Rosenfeld – Industry owned lands
  - e) Jean Evoy, DERM, wanted the committee to consider the possible restoration of a one-mile stretch of land, which lies between the Urban Expansion Boundary & the Urban Development Boundary. Land cost is approximately \$50,000 per acre. This land will probably be used for urban development as new expressway is scheduled for construction nearby. Committee concluded that this land is probably not a good choice, at this time, for Lake Belt Mitigation acquisition.

## 7. Status on Leases of State Owned Lands

a) Janet Llewellyn has had further discussions with the Bureau of State Lands. Any leases of State owned land require an open bidding process. The Bureau will work with Janet to ensure that the bidding process reflects, to the extent possible, the intent of the Lake Belt Plan. The mining companies will need to contact the Bureau with a letter of interest to start the process.

## 8. USACOE Permit Update

- a) Miners are required to file an annual report, due January 15, each year indicating acres mitigated. The permit requires calculation of “equivalent lift” for mitigation credit. Jeff Rosenfeld is responsible for compiling and filing this report.
- b) New USACOE permits became effective April 2002. Old mining permits rolled into new permits.
- c) Three organizations are challenging the new permits in court. No injunction has been to stop mining activity.

## 9. Next Steps: Committee Actions for Remainder of 2002

- a) **ACTION – 8:** Jean Evoy to contact DERM to provide update to Committee on well fields – Policy level & permits. Public meeting and notice required.
- b) Tom MacVicar to conduct regulatory status update meeting in November. Committee members are invited to attend, however, it is not intended to be a Public Meeting under Florida Statutes. (No public notice required)
- c) **ACTION – 9:** Tom Olliff is to compile and prepare 2002 LBMC report and have available for January 30, 2003 meeting. Tom is to reserve meeting room at SFWMD HQ and coordinate Public Meeting Notice.

## 10. Next Meeting

- a) LBMC Annual Report to be completed and presented at the January 2003 meeting. There is no required filing date in the Florida Statutes.
- b) Next meeting scheduled for January 30, 2003 at WPB SFWMD HQ.
- c) Present and Review LBMC Annual Report at the March SFWMD Board meeting.

## 11. Adjourn

## 12. Action Follow Up:

- a) A-1: Tom Olliff; Determine if 100 acres going to Board for purchase are scheduled for purchase with Developer's funds and/or Miner's funds.
- b) A-2: Terrie Bates; Contact Internal Audit (IG) to determine the proposed schedule of the DOR & LBM Fund audit. Request IG to provide a scope presentation, timetable, and final report upon completion.
- c) A-3: Terrie Bates; Funding Swap with Prior Land Mitigation Purchases – Terrie distributed a copy of FS 373.41492 (6) (a) that discusses allowable uses of Trust Fund accumulations. One possible alternative is swapping of 814 acres of prior P2000 land acquisitions with current mitigation dollars. P2000 funds would be restored to their original accounts for later land acquisitions. Terrie indicated the SFWMD IG considered this swap maybe acceptable, as long as the Board is advised and approves in advance. Terrie to prepare action to notify Governing Board.
- d) A-4: Terrie Bates; Have legal counsel investigate the process for redirecting Federal cost share funds with Miner's mitigation funds.
- e) A-5: Marjorie Moore & Anita Bain; SFWMD will compile a listing and map of total available State, County, District & Private lands available for mitigation credit. The listing should include completed, available or potentially available. This information will be presented at the next Committee Meeting, January 30, 2003.
- f) A-6: John Studt, COE, to work with District, DERM and DEP representatives to determine if it is possible to exchange Restoration Mitigation Costs for Land Acquisition Acres. The purpose of this exchange is to provide offsetting mitigation credits which qualify for Lift Compliance as required for the COE Mining Industry permits.
- g) A-7: Individuals listed below are to gather information regarding availability of public and private lands available for restoration or land swaps. This information is to be forwarded to Marjorie Moore and Anita Bain.
  - a. Janet Llewellyn – State owned lands
  - b. Jean Evoy – County owned lands
  - c. John Studt – Federal / COE lands
  - d. Terrie Bates – DSL lands
  - e. Jeff Rosenfeld – Industry owned lands

- h) A-8: Jean Evoy to contact DERM to set up meeting providing the Committee with an update on well fields – Policy level & permits. Public meeting notice required.
- i) A-9: Tom Olliff is to compile and prepare 2002 LBMC report and distribute at the January 30, 2003 meeting. Tom will reserve room at SFWMD HQ and coordinate Public Meeting Notice.

#### 14) Post Meeting Notes

- a) **Note 1** – The Trust Fund also includes earned interest. The interest earned through July 31, 2002 was \$315,691. When combined with the Department of Revenue collections through July 2002 (\$6,292,286), the total available to be converted to mitigation acres is \$6,607,977. At \$6142/acre, the conversion would result in 1075.9 mitigation acres.
- b) **Note 2** – Total cash receipts deposited into the LBMF from inception to Fiscal Year ending September 30, 2002, is \$6,838,355. Of this total amount, \$6,492,714 represents fees collected from miners, and \$345,641 is interest earned on invested balances. This amount will be subject to the District's Annual audit.
- c) **Note 3** – Lisa Morgan, Revenue Accounting for DOR, stated that the budget office did not budget or plan to collect a 3% Administrative Service Fee" for prior collections and distribution of the mining fee. This is a decision that is made by the State Budget office each fiscal year during the budget process and she would not expect a retroactive collection of the 3% administrative fee. Frank Mumby, SFWMD Fund Accountant, will request, in writing, a statement that DOR will not retroactively collect the estimated \$194,781 administrative fee. This statement is required to support the annual audit for the period ending September 30, 2002, otherwise the District maybe required to book a contingent liability, thereby reducing the total mitigation funds available. Lisa Morgan can be contacted at: DOR, Revenue Accounting, (850) 921-1162 or email [MorganL@dor.state.fl.us](mailto:MorganL@dor.state.fl.us).

#### Attachments:

- 1) Copy of LBM Fund transactions from inception to September 30, 2002.
- 2) List of Committee Members & interested parties.
- 3) Terrie Bates worksheet
- 4) Map of Land Ownership within Pennsuco.