

# TOC Memorandum

**To: Principals of the Consent Decree**

Dan Kimball, Superintendent, Everglades National Park  
Silvia Pilizza, Manager, A.R.M. Loxahatchee National Wildlife Refuge  
Alfred Pantano, District Commander, Jacksonville Dis., U.S. Army Corps of Engineers  
Herschel Vinyard Jr., Secretary, Florida Dept. Environmental Protection  
Melissa Meeker, Executive Director, S. Florida Water Management District

**From: Representatives of the Technical Oversight Committee**

Nicholas Aumen, Everglades National Park  
Mike Walden, A.R.M. Loxahatchee National Wildlife Refuge  
Sean Smith, Jacksonville District, U.S. Army Corps of Engineer  
Earnest Marks, Florida Dept. Environmental Protection  
Garth Redfield (Chair), S. Florida Water Management District

**Date: February 28, 2012**

**Re: TOC Request for decisions on staff and financial resources, clarifications of policy and interpretations of the Settlement Agreement by Principals of the Consent Decree**

This memorandum summarizes issues being forwarded to the Principals of the Consent Decree for resource decisions, clarifications of policy and interpretations of the Settlement Agreement. These issues were identified during the quarterly meeting of the Technical Oversight Committee (TOC) on November 29, 2011 and are identified as Action Items in the attached meeting notes. Issues to be considered by the Principals are indicated by letter and are summarized below:

- A. Request REMAP Monitoring of the Everglades Protection Area:** TOC Representatives recommend that their agencies develop a plan together to request a new round of REMAP monitoring of key areas in the Everglades Protection Area from USEPA (TOC Action Item #1).
- B. Consider Soil/Vegetation Monitoring:** TOC Representatives recommend that the Principals support a 5-year rotational monitoring program of soil TP concentrations and associated vegetation communities in key geographic areas (TOC Action Item #1). This recommendation might be fulfilled by REMAP monitoring, Issue A.
- C. Analyze Existing Data to Support TOC:** TOC Representatives recommend that the Principals decide whether to commit staff and/or financial resources to implement analyses of existing data to support the Settlement Agreement (TOC Action Item #3). Any such analyses would be based on available data and would answer specific questions from the TOC to be addressed with data analyses by multiple agencies (Action Item #2).
- D. Clarify Settlement Agreement Monitoring Requirements:** TOC Representatives recommend that the Principals provide guidance to TOC on interpretation of monitoring requirements under the Settlement Agreement (Appendix D) and whether these requirements are being met by existing monitoring programs.

**E. Clarify STA-1E Water Quality Performance Goals:** TOC Representatives recommend that the Principals provide guidance to the TOC on interpretation of performance planning goals in the PCA for STA-1E (Action Item #5).

Guidance from the Principals of the Consent Decree can be provided to the Chair for OC distribution and placing on the TOC agenda for discussion and approval as appropriate. The TOC Representatives will gladly provide additional information as requested. Please contact agency TOC Representatives or the TOC Chair.

Prompt attention to these issues would be welcomed.

Attachments: TOC Meeting Notes, November 29, 2011, and Notes on issues to be addressed by the Principals

## Background on Requests to the Principals of the Consent Decree by TOC Representatives

The following notes are intended to summarize relevant background information and Action Items being forwarded to the Principals of the Consent Decree for resource decisions, clarifications of policy and interpretations of the Settlement Agreement. Issues to be addressed by the Principals were identified during the quarterly meeting of the Technical Oversight Committee (TOC) on November 29, 2011. Based on the DVD of the November 29, 2011 TOC meeting, key references to various parts of the meeting are also provided as hours and minutes on the DVD and a copy of the draft meeting notes is attached as a reference for the numbered Action Items in the meeting notes. Issues that are recommended by TOC to be considered by the Principals are indicated by letter, as summarized in the following table.

	<b>Principal Issue</b>	<b>TOC Action Item</b>	<b>DVD Time</b>
A	Request New REMAP Monitoring	1	0:55 to 1:17
B	Conduct Soil/Vegetation Monitoring	1	0:55 to 0:59
C	Analyze Existing Data	2 and 3	0:58 to 1:02
D	Clarify Settlement Agreement Requirements	4	1:37 to 1:45
E	Clarify STA-1E Performance Goals	5	1:52 to 2:15

- A. **Request New REMAP Monitoring:** TOC Representatives recommend that the Principals individually or as a group, request a new round of REMAP monitoring of key areas in the Everglades Protection Area from USEPA (**Action Item #1**). The Principals may also consider what financial and staff resources could be made available to a multi-agency collaborative effort to collect and synthesize data from the survey. Any such request must be developed in recognition that geographic coverage under the Consent Decree is limited to the Loxahatchee National Wildlife Refuge and Everglades National Park.
- B. **Conduct Soil/Vegetation Monitoring:** TOC Representatives recommend that the Principals support a 5-year rotational monitoring program of soil TP concentrations and associated vegetation communities in key geographic areas (DVD Hr: 0:55 – 0:59). Any such effort would likely be constrained by available funding and should be supported by all agencies signatory to the Settlement Agreement. The sampling must be focused tightly on areas where data collection would most likely answer relevant high priority, management questions. Any REMAP sampling (**Action Item #1**) could be designed to fulfill this basic need and more.
- C. **Analyze Existing Data:** TOC Representatives recommend that the Principals decide whether to commit staff and/or financial resources to implement analyses of existing data (DVD Hr. 0:58 – 1:02; **Action Item #3**), based on available data and TOC specific questions to be addressed by data analyses (**Action Item #2**).

Notes from the subsequent discussion of monitoring related to these issues (DVD Hr: 1:02 – 1:17) include: data mining and analysis might be done before planning any new monitoring; REMAP data collection would require agencies requesting a new round of sampling and locating sources of funding across agencies; the last REMAP effort in 2005 cost 1.4 million dollars, but included investigations well beyond basic information needs on water quality; the scope of any new data collection must be tightly focused on ‘must know’ information in light

of very limited funding potential for all agencies; before investing time in either data analysis or designing additional data collection, TOC must have some indication of agency willingness to devote finances and staff time to the effort; and TOC could then be charged to develop specific proposals for both new data collection and data analysis of extant data.

**D. Clarify Settlement Agreement Requirements:** TOC Representatives recommend that the Principals provide guidance to TOC on interpretation of monitoring requirements under the Settlement Agreement (Appendix D) and whether these requirements are being met by existing monitoring programs (Action Items #4 & #5). This request for interpretation of the Settlement Agreement was made at DVD Hr. 1:37 and Hr. 1:43 & 1:45). There was a related request for clarification on the ‘oversight’ role of the TOC in approving changes in ambient monitoring programs or simply being notified of changes (DVD Hr. 1:41). Recent budget-driven reductions in monitoring may have changed the availability of data from a variety of programs and this may influence information that can be used to meet the objectives of the Settlement Agreement. It was suggested that current programs should be reviewed with an eye towards information gaps.

This Action Item was derived from a discussion of the data collected on the XYZ transects in the Refuge and the role of the TOC in deciding whether the data collection should have been stopped (DVD Hr.1:18 to about 1:50). Is transect monitoring required by the Settlement Agreement as part of the downstream monitoring of inflows. Do the parameters being monitoring at nearby stations satisfy the requirements of the Settlement Agreement (DVD Hr.1:31 to1:36). Based on concluding comments (DVD Hr. 1:34 to 1:50), there were requests to refer these monitoring issues to the Principals.

**E. Clarify STA-1E Performance Goals:** TOC Representatives recommend that the Principals provide guidance to the TOC on interpretation of performance planning goals in the PCA for STA-1E. This request is particularly important for both State and Federal planning to meet water quality based effluent limits (WQBELs) being proposed in new STA operating permits. Renovation described by Eric Bush in his presentation to the TOC (Agenda Item 4A) must at least be designed in a manner that will not interfere with other projects being undertaken through the LTP, although Eric Bush indicated that LTP projects were not being considered in the renovation of STA-1E. There was discussion of the planning goal for reconstruction activities being done on STA-1E (DVD Hr. 1:52 to 2:15). It was noted that Section 528 of the Project Cooperation Agreement (PCA) does indicate that the STA-1E project should meet water quality standards, but agencies do not interpret this section in the same manner. The USACE indicates that it designed STA-1E improvements to meet 50 ppb, the original goals, and that modifications recommended through the Long-Term Plan (LTP) are not being considered as part of the restoration process.