

**Quarterly Meeting of the
Technical Oversight Committee (TOC)**

March 1, 2011

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

TOC Representatives:

Garth Redfield, TOC Chair, SFWMD
Ernie Marks, FDEP
Sean Smith, USACE

Mike Waldon, Refuge
Nick Aumen, NPS/ENP
John Barkett, Special Master (by phone)

Note: This meeting was recorded by a court reporter and copies are available for purchase; contact Florida Court Reporting (561-689-0999). Handouts and presentations are also available on the TOC website (www.sfwmd.gov/toc).

10:10 a.m. **TOC Meeting Called to Order by TOC Chair**

Modifications to the Agenda and Announcement of Documents Available on the TOC Website – Garth Redfield, SFWMD

No changes to the agenda (**Document 1**) were requested.

Agenda Item #1, Approval of November 30, 2010, TOC meeting notes – Garth Redfield, SFWMD

Garth Redfield asked for any comments on the notes from the previous meeting (**Document 2**). Nick Aumen and Mike Waldon requested changes to a total of three items. The notes were then approved.

➔ **Action Item #1:** Changes were requested for Agenda Items #2 (add “in Shark River Slough” after “occurred”), #3A (“Basin B” in the second line changed to “Compartment C”), and #3B (“data is” in the first line changed to “data are”).

Associated Online Documents

1. [Agenda TOC Meeting 3/1/11](#)
2. [TOC Meeting Notes from 11/30/10](#) (final)

10:15 a.m. **Agenda Item #2. Establishing Maximum Annual Discharge Limits** – TOC Group Discussion

Garth Redfield stated that several items on the agenda are intended to address the Special Master’s Report.

Nick Aumen motioned (**Document 3**) for the TOC to recommend the FDEP “adopt, as the maximum annual discharge limit for the Refuge, the Water Quality-Based Effluent Limit identified in the USEPA’s Amended Determination, dated September 3, 2010.” This WQBEL means “total phosphorus concentrations in discharges to the Refuge may not exceed either 10 ppb as an annual geometric mean in more than two consecutive years, or 18 ppb as an annual flow-weighted mean.”

Mike Waldon seconded the motion.

Discussion followed. Ernie Marks requested consideration of the FDEP’s recommended position (**Document 4**) and noted that FDEP cannot make any WQBEL recommendation without going through the state administrative process. At Nick Aumen’s request, William Walker made a presentation regarding the WQBEL (**Document 5**). Kirk Burns, SFWMD, commented that slide 19 of William Walker’s presentation was missing its context. Joette Lorion (Miccosukee Tribe of Indians), Charles Lee (Audubon of Florida), and Martha Musgrove (Arthur R. Marshall Foundation) made public comments on discharge limits.

12:25 p.m. Break

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1:15 p.m. Call to order, discussion for Agenda Item #2 resumed.

A rebuttal report (**Document 6**) from Nenad Iricanin, SFWMD, from an October 2010, court hearing was made available with the handouts for the meeting. Discussion continued and Mike Waldon commented on the rebuttal report.

The TOC did not pass Nick Aumen's motion. The 3-2 vote was as follows:

Nick Aumen (yea), Mike Waldon (yea), Sean Smith (yea), Ernie Marks (nay), and Garth Redfield (nay).

As a result of the vote, the FDEP will move through the administrative process and FDEP's position paper was put into the record (**Document 4**).

Associated Online Documents

3. [Motion Regarding Establishing Maximum Annual Discharge Limits](#)
4. [Recommended Position for Establishing Maximum Annual Discharge Limits](#)
5. [Maximum Annual Discharge Limits to Achieve Compliance with Consent Decree's Water Quality Requirements - Summary of Exhibits and Issues](#)
6. [Rebuttal Report of Nenad Iricanin \(10/25/10\)](#)

1:30 p.m. **Agenda Item #3. Compliance with Long-Term Limits for Shark River Slough 2008 –**
Garth Redfield, SFWMD

Garth Redfield presented a review of the situation regarding the September 2008 data for Shark River Slough. Originally, the associated field-cleaned equipment blank (FCEB) had a TP concentration of 3 µg and, as a result, the data were qualified in the database. The state analyzed the qualified data and chose to include them because there was no evidence of field contamination. With the values included there was not an apparent exceedance of the long-term limit.

The Special Master's Report states that qualified data for the September 3, 2008, grab sample at Shark River Slough should be removed as part of the process. Excluding the data caused an apparent exceedance of the long-term limit and an excursion that needed to be considered by the TOC.

Following Garth's review, Nick Aumen moved for the TOC to recognize that there is substantial evidence that sampling error caused the apparent excursion.

Mike Waldon seconded the motion and added that the TOC should not be bypassed in the investigation of whether flagged data should be used.

The TOC passed Nick Aumen's motion with a unanimous 5-0 vote.

Discussion on the general process of data qualifying and use followed. Garth Redfield commented that in this instance the process for analysis of the qualified data did not flow correctly. In the future, the analysis will be presented to the TOC and the TOC will determine if data will be used for the purposes of the Quarterly Settlement Agreement Report. Bill Walker, who submitted a report on Shark River Slough (**Document 7**), questioned whether data would be reviewed if the results were much lower than expected. He also requested that the data from grab samples that are not used for the compliance calculations be reported.

➔ **Action Item #2:** The SFWMD will include supplemental data (every other week samples) collected from Shark River Slough as an appendix in the Quarterly Settlement Agreement Report.

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- Action Item #3:** The SFWMD will update the Quarterly Settlement Agreement
- ➔ Report containing the September 2008 Shark River Slough data and note the data change approved by the TOC's vote.

Associated Online Documents

7. [Comments on the Compliance Report for Shark River Slough Inflow Phosphorus Limits in Water Year 2008 \(June 23, 2009\)](#)

1:45 p.m.

Agenda Item #4. Data Usability Determinations – Ernie Marks, FDEP

The Special Master's report recommends that the TOC decide on protocols for quality assurance in regards to data related to the Settlement Agreement. Ernie Marks presented the FDEP's recommendation (**Document 8**) to use that agency's Process for Assessing Data Usability (**Document 9**). The other TOC representatives requested time to review the proposed process and want to ensure the TOC has final say as to whether data are used.

In the interim, the current process will remain in place. The agency that gathered the data will analyze qualified data and present the results to the TOC. The TOC will decide whether the data are used.

- ➔ **Action Item #4:** TOC representatives and interested stakeholders will review the FDEP Process for Assessing Data Usability (**Document 9**) and send comments to the TOC email list.
- ➔ **Action Item #5:** The FDEP will prepare responses and present them at the next quarterly TOC meeting.

The FDEP also proposed establishing a panel of scientists to assist the TOC with QA/QC determinations. Discussion followed and addressed the use of panels by the TOC in the past, challenges associated with setting up a panel, panel composition, and panel roles. Garth Redfield said currently there does not seem to be a need for a panel, but any TOC representative can request that one be formed.

In a related discussion, Mike Waldon proposed that the TOC invite individual scientists to make presentations on the topics of their research at quarterly meetings.

Associated Online Documents

8. [Recommended Position for Establishing Quality Assurance Protocols and Panel of Scientists](#)
9. [Process for Assessing Data Usability](#)

2:05 p.m.

Agenda Item #5. Presentation of the Settlement Agreement Report – Stuart Van Horn, SFWMD

Stuart Van Horn presented the Settlement Agreement Report for October – December 2010 (**Documents 10 and 11**). Data associated with samples collected at the LOX4 site on December 6, 2010, were qualified as described in the Quality Assessment Report for Water Quality Monitoring (**Document 12**). Data collected at S333 and S12A were also qualified, but were not collected as part of the compliance data set. The data from LOX4 will be subjected to the TOC quality assessment process.

- ➔ **Action Item #6:** The SFWMD will analyze the qualified data from LOX 4 and present the results at the next quarterly TOC meeting.

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Nick Aumen expressed his concern over the TP concentrations seen in Shark River Slough. They continue to be in the 90th percentile, and while the values are in compliance, there is an increasing problem with cattails in the area. Nick would like to have this topic addressed at a future TOC meeting. Garth Redfield also suggested that Bill Walker present information on variation in Shark River Slough at a future TOC meeting.

- ➔ **Action Item #7:** Nick Aumen will work with Donatto Surratt, ENP, to analyze the TP data for Shark River Slough and present the results at the next quarterly TOC meeting.

Associated Online Documents

10. [Settlement Agreement Report, October - December 2010](#)
11. [Settlement Agreement Report Presentation - Oct - Dec, 2010](#)
12. [Quality Assessment Report for Water Quality Monitoring, October - December 2010](#)

2:40 p.m. **Agenda Item #6A. TOC Update – Update on STAs and Related Projects** – John Mitnik, SFWMD

Garth Redfield explained that John Mitnik, SFWMD, was not able to make his presentation, but the file is available online (**Document 13**).

Associated Online Documents

13. [STAs and Related Projects Update - Part 2 for March 1, 2011 TOC Meeting](#)

2:45 p.m. **Agenda Item #6B. TOC Update – Update on Refuge Monitoring and Modeling** – Mike Waldon, USFWS

Mike Waldon presented an update and the Refuge's Enhanced Water Quality Program Monthly Sampling report (**Document 14**). The report and its data tables are in PDF, but the data are available in a usable format by contacting the Refuge. Mike also mentioned that several new reports from the Refuge are available through the SOFIA website (<http://sofia.usgs.gov/>), including a new modeling report.

Associated Online Documents

14. [Refuge's Enhanced Water Quality Program Monthly Sampling, October-December 2010](#)

2:50 p.m. **Agenda Item #7. Public Comment and Discussion**

Nick Aumen asked whether the TOC should schedule a discussion of the analysis in the Special Master's Report regarding paragraph B-1 and "which is lower."

Mike Waldon would like to discuss restarting data collection at the X, Y, and Z sites in the Refuge at the next quarterly TOC meeting.

There were no other public comments.

2:55 p.m. **Agenda Item #8. Future Meeting Dates**

The next TOC Quarterly meeting will be May 31, 2011. Special meetings are not planned, but if necessary they can occur on March 22, 2011, April 19, 2011, or both.

3:00 p.m. **Meeting Adjourned**