Congress of the United States
House of Representatives
Washington, DC 20515

Facsimile from the office of
Congressman Peter Deutsch
2303 Rayburn House Office Building
Washington, DC 20515
Phone - (202) 225-7931
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TO: Secretary Gale Norton

DATE: 4/9/03

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FAX NUMBER: 208-5533

FROM:

- [X] Peter Deutsch
- [ ] Marcus Jadotte, *Chief of Staff*
- [ ] Elizabeth Assey, *Legislative Director*
- [ ] Evonne Marché, *Scheduler/Ofc Mgr*
- [ ] Eric Lynn, *Senior Legislative Asst*
- [ ] Matt Chiller, *Legislative Asst*
- [ ] Adriana Surfas, *Press Secretary*
- [ ] Joe Maloney, *Legis. Correspondent*
- [ ]

'03 APR -9 P4:26
DEPT. OF THE INTERIOR
OFFICE OF

COMMENT:

Congress of the United States

Washington, DC 20515

April 9, 2003

The Honorable Gale Norton
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240-0001

Dear Secretary Norton:

As Members of Congress who are strongly committed to the success of Everglades restoration, we are writing to express our grave concerns regarding legislation currently under consideration in the Florida State Legislature. Enactment of this legislation would, quite simply, destroy the unprecedented federal-state partnership to restore the Everglades and ensure the continued degradation of this national treasure.

By discretely referencing other documentation, the bill before the Florida Legislature seeks to drastically weaken the Everglades Forever Act by raising the acceptable Everglades phosphorus pollution level by 50% to 15 parts per billion. Even more damaging is the legislation's extension of the compliance deadline for an acceptable phosphorus level by twenty years, to 2026, and the elimination of any phosphorus enforcement until that time.

As you know, the current phosphorus pollution standard of 10 parts per billion is essential to achieving restoration. It was agreed to by the U.S. Department of Interior, the U.S. Department of Justice, the U.S. Environmental Protection Agency, the Governor of Florida, the Florida Department of Environmental Protection, the environmental community and a number of local stakeholders--in order to settle federal litigation charging the South Florida Water Management District and State of Florida with failure to protect water quality crucial to the healthy functioning of the Everglades ecosystem.

The Everglades ecosystem is among our country's most precious natural assets. The federal parks, preserves and wildlife refuges it encompasses belong to all Americans. Recognizing the national importance of this ecosystem, the Comprehensive Everglades Restoration Plan (CERP) forged a partnership between Florida and the federal government, and initiated the most ambitious environmental restoration effort ever undertaken in human history.

The American people expect and deserve a restored Everglades. The federal investment in the Everglades is predicated on scientifically based restoration of the ecosystem, and restoration cannot succeed without cleaner water. Therefore, a decision by the State of Florida--that has no basis in science--to dramatically increase in the allowable phosphorus levels, not only threatens to undermine the goals of restoration but would **most certainly result in the loss of federal funding for the CERP from the U.S. Congress. The U.S. Congress will not appropriate funds for the CERP if this legislation is enacted.**

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With so much at stake, we urge you take a strong position against the proposed legislation and work to defeat it. It is imperative that you exercise your leadership to ensure that the current partnership between the federal government and Florida continues and that the promise of a restored Everglades is not sacrificed.

Sincerely,

Peter Deutsch
Member of Congress

Maurice Hinchey
Member of Congress

Jim Davis
Member of Congress

John Olver
Member of Congress

cc: The Honorable James Connaughton, Chairman, CEQ

321779

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

SEP 25 2003

Honorable Peter Deutsch
House of Representative
Washington, DC 20515

Dear Mr. Deutsch:

Secretary Norton has asked me to reply to your letter of April 9, 2003, also signed by Representatives Maurice Hinchey, Jim Davis, and John Oliver. Your letter raised concerns and issues about legislation impacting efforts to restore the water quality in South Florida. I apologize for this delayed reply. Similar letters are being sent to the other signatories.

We also are concerned by efforts, including those noted in your letter, that may slow implementation of water quality improvements in the Everglades, and we hope that we can work with you and our partners in Florida to keep water quality restoration a top priority.

As I believe you are aware, although the Florida legislature amended the 1994 Everglades Forever Act, it subsequently passed a "glitch bill" that addressed some of your key concerns. Additionally, the State has reiterated its commitment to meet its obligations to achieve long-term phosphorus limits and load reductions for Everglades National Park and A.R.M. Loxahatchee National Wildlife Refuge as required under the Consent Decree in *United States v. South Florida Water Management District.* Nothing in the bills enacted by the Florida legislature modifies these requirements, which remain binding on the State. The Department of the Interior remains steadfast in its commitment to Everglades restoration and the principles and timelines embodied in the Consent Decree.

We share your convictions in restoring, preserving, and protecting the Everglades and thank you for your continued interest and commitment to ensure the success of this most ambitious environmental restoration effort. Please do not hesitate to contact the Department if you have any further questions about this important issue.

Sincerely,

Paul Hoff

Acting Assistant Secretary for Fish
and Wildlife and Parks

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

SEP 25 2003

Honorable Maurice Hinchey
House of Representative
Washington, DC 20515

Dear Mr. Hinchey:

Secretary Norton has asked me to reply to your letter of April 9, 2003, also signed by Representatives Peter Deutsch, Jim Davis, and John Oliver. Your letter raised concerns and issues about legislation impacting efforts to restore the water quality in South Florida. I apologize for this delayed reply. Similar letters are being sent to the other signatories.

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Sincerely,

Paul Hoff

Acting Assistant Secretary for Fish
and Wildlife and Parks

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

Honorable John Olver
House of Representative
Washington, DC 20515

SEP 25 2003

Dear Mr. Olver:

Secretary Norton has asked me to reply to your letter of April 9, 2003, also signed by Representatives Maurice Hinchey, Jim Davis, and Peter Deutsch . Your letter raised concerns and issues about legislation impacting efforts to restore the water quality in South Florida. I apologize for this delayed reply. Similar letters are being sent to the other signatories.

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Sincerely,

Paul Hoff

Acting Assistant Secretary for Fish
and Wildlife and Parks

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

SEP 25 2003

Honorable Jim Davis
House of Representative
Washington, DC 20515

Dear Mr. Davis:

Secretary Norton has asked me to reply to your letter of April 9, 2003, also signed by Representatives Maurice Hinchey, Peter Deutsch, and John Oliver. Your letter raised concerns and issues about legislation impacting efforts to restore the water quality in South Florida. I apologize for this delayed reply. Similar letters are being sent to the other signatories.

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Sincerely,

Paul Hoff

Assistant Secretary for Fish
and Wildlife and Parks

THE SECRETARY OF THE INTERIOR

WASHINGTON

OCT 2 8 2003

The Honorable Les Brownlee
Acting Secretary of the Army
Office of the Under Secretary of the Army
102 Army Pentagon, Rm. 3E732
Washington, DC 20310-0102

Dear Secretary Brownlee:

The Department of the Interior appreciates the tremendous effort of the Jacksonville District of the Army Corps of Engineers to develop the programmatic regulations to implement the Comprehensive Everglades Restoration Plan (Plan). We appreciate the extra opportunities afforded to the public, and all stakeholders, to participate in the development of the regulations.

Issuance of the final programmatic regulations is an important and significant step toward a restored Everglades. Along with the Assurances of Project Benefits Agreement, which was signed by the President and the Governor of Florida in January 2002, the programmatic regulations prescribe processes to ensure that the Everglades natural system environment will once again receive the appropriate quantity, timing and distribution of water. Restoration is clearly defined and procedures are set forth to adaptively manage the implementation of the Plan so that it may be adjusted as new information is developed.

We are pleased that the programmatic regulations recognize the role of Interior and its agencies in the Plan's implementation. We look forward to working with the Army on the guidance memoranda, the pre-CERP baseline, and the joint development of interim goals. As steward of one-half the remaining Everglades, we pledge to work closely with our Federal and State partners to ensure that the goals and purposes of the Plan are achieved.

The Department believes that the final programmatic regulations fully meet the legal requirements of Section 601(h)(3)(C) of the Water Resources Development Act of 2000. As a result, I concur with your issuance of the final programmatic regulations.

Sincerely,

Gale A. Norton

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

17 OCT 2003

REPLY TO
ATTENTION OF

Honorable Gale A. Norton
Secretary of the Interior
1849 C Street, NW
Department of the Interior
Washington, D. C. 20240

Dear Secretary Norton:

The Department of the Army greatly appreciates the constructive role the Department of the Interior has played in the development of the programmatic regulations for the Comprehensive Everglades Restoration Plan (CERP). The input and perspectives of your agency have enriched the public comment process and significantly contributed to the collective effort to create effective regulations that will ensure that the goals and purposes of CERP are achieved.

The Office of Management and Budget recently completed its review of the proposed final regulations on behalf of the Administration. I am pleased to now forward these important regulations to the Department of Interior. As you know, the Water Resources Development Act of 2000 requires the Secretary to provide a written statement of concurrence or nonconcurrence, which will be made a part of the administrative record and referred to in the final programmatic regulations.

I trust you share my confidence that the regulations chart a positive course for this extraordinary restoration effort and look forward to our continued collaboration.

Very truly yours,

John Paul Woodley, Jr.

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

OCT 21 2003

MEMORANDUM

To: Secretary

From: Ann R. Klee ARK
Counselor and Special Assistant to the Secretary

Subject: Secretarial Concurrence on the Army's Comprehensive Everglades Restoration Plan Programmatic Regulations

Background and purpose of this memorandum: The Water Resources Development Act of 2000 ("WRDA 2000") requires the Army to promulgate programmatic regulations to implement the Comprehensive Everglades Restoration Plan (Plan) with the concurrence of the Secretary of the Interior and the Governor of Florida. During the last three years Interior staff has worked closely with staff from the Corps of Engineers and the State of Florida to develop the regulations. Stakeholders provided significant input during this process and the Office of Management and Budget's review of the final regulations is complete. The Department of the Army is now seeking our concurrence on the regulations prior to publishing the final regulations in the Federal Register.

This memorandum summarizes the significant progress we have made to develop regulations that fully meet WRDA 2000's statutory requirements to ensure that the goals and purposes of the Plan are achieved. As a result, this memorandum seeks your concurrence on the regulations. If you concur, a proposed letter to the Army is attached for your review and signature. A summary of the major improvements that have been made to the regulations follows:

Major improvements to the regulations:
The role of Interior: The initial draft of the regulations reflected the status quo and did not accurately reflect the Department's role in implementing the Plan; nor did it accurately reflect WRDA 2000's concurrence requirements. We suggested significant improvements in this area. As a result, the final regulations secure an Interior role that is consistent with the statute and fully integrates Interior agencies in the planning process.

In addition to codifying the Secretary's concurrence role on the programmatic regulations, Interior is provided concurrence on six guidance memorandums setting forth system-wide processes for technical issues, including identifying the appropriate quantity, timing and distribution of water to be dedicated and managed for the natural

system. We also worked with the Corps and the State to develop requirements to jointly agree upon the pre-CERP baseline, which identifies the hydrologic conditions as of the date of enactment of WRDA 2000. The regulations also provide a strong role for Interior in scientific matters. Interior is provided a leadership role in RECOVER, which is an interagency scientific and technical team that is charged with assessment, evaluation and integration responsibilities to ensure that the goals and purposes of the Plan are achieved. These major improvements will forge the partnership that is necessary to implement the Plan as envisioned by Congress.

Defining restoration: The initial draft proposed an inadequate, and limiting, definition of restoration. The definition did not provide a clear goal, in terms of target ecological and hydrologic conditions, for agencies to achieve. We proposed changes so that the final definition serves as a performance-based management objective. Other changes to the regulations clarify that the goal of the Plan is the restoration, preservation and protection of the South Florida ecosystem, while also providing for other water related needs.

Interim restoration goals and targets for other water related needs: WRDA 2000 requires a process to establish interim restoration goals so that agencies may measure progress and track restoration success. Some stakeholders viewed the establishment of interim goals as serving to exclude the achievement of the other water related benefits of the Plan. To respond to these concerns, we proposed establishing targets for other water related needs so that agencies also track the progress of the Plan in delivering benefits to the human environment.

Additionally, a major issue developed as to whether the interim goals should be in the regulations, or whether they should be memorialized elsewhere. Although we proposed that the interim restoration goals be incorporated into the regulations by reference, the State raised concerns that if the interim goals were part of the regulations they would be viewed as enforceable standards. Further, if the regulations were incorporated by reference once the interim goals are complete next year, it would be necessary to reissue the regulations for comment.

To address these concerns, the final regulations provide for the joint establishment of interim goals utilizing a memorandum of agreement among the Army, Interior and the State of Florida. Interior staff are leading the effort within RECOVER to develop recommendations for the interim goals. This approach ensures a strong partnership among all the Federal and State agencies and provides for full public transparency.

Overall, along with the Agreement between the President and the Governor requiring the State to reserve water for environmental use, the regulations ensure achievement of the benefits for the Everglades natural system and human environment by requiring the development of interim restoration goals and targets for other water related needs. These

performance-based measures will ensure accountability as agencies plan for and evaluate achievement of the Plan's success. Principles of adaptive management are incorporated so that Plan components may be adjusted and improved as new scientific information is developed.

Recommendation: Based upon the many improvements we have made and the fact that the regulations fully meet the requirements of WRDA 2000, I recommend you concur with the regulations and sign the attached letter to the Secretary of the Army. Your options include:

Jack A. Norton

Concur

Do Not Concur

Attachment