

Application No. 1

Countywide

APPLICATION SUMMARY

Applicant/Representative: Florida Power and Light Company/Jeff Bercow, Esq. and Mike Radell, Esq.
Bercow Radell & Fernandez, P.A.
200 S. Biscayne Boulevard
Miami, Florida 33131

Element to be Amended: Land Use Element – Agriculture Text

Requested Text Changes: Modify language regarding allowance of water management projects in areas designated Agriculture on the Land Use Plan map as proposed by the applicant.

Amendment Type: Standard Text Amendment

RECOMMENDATIONS

Staff: **TRANSMIT WITH CHANGE**

Planning Advisory Board (PAB) acting as Local Planning Agency: **TO BE DETERMINED**

Board of County Commissioners: **TO BE DETERMINED**

Final Recommendation of PAB acting as Local Planning Agency: **TO BE DETERMINED**

Final Action of Board of County Commissioners: **TO BE DETERMINED**

REQUESTED TEXT AMENDMENTS AND DEPARTMENT RECOMMENDED CHANGES:

The Department recommends **TRANSMIT** Requested Text Amendments **WITH CHANGE** as noted below:

Recommended Change 1:

Move the applicant's proposed text on water management projects, to the end of the 3rd paragraph, which addresses existing quarry activities on lands designated Agriculture (page I-59) under the Agriculture text of the Land Use Element.

Recommended Change 2:

Clarify the current agricultural text that states existing quarrying in the Agricultural area "may" be considered for expansion by adding "after public hearing concerning the particular proposed expansion site" (page I-59).

Recommended Change 3:

Add proposed language to the existing quarrying paragraph (Page I-59), as recommended by the Department, to the "Agriculture text of the Land Use Element, which allows water management projects only after meeting outlined conditions:

Proposed Text as Recommended by Department:

The Department's Recommended Changes 1 through 3 would result in the "Agriculture" interpretive text of the Land Use Element found on Page I-59 (October 2006 Editions as amended through July 17, 2008) being modified as follows. Underlined text consists of the original filed application. The recommended additions and deletions by the Department, to the applicant's proposed wording are indicated by double underlining and ~~Strikethrough~~.

Existing quarrying and ancillary uses in the Agricultural area may continue operation and be considered for approval of expansion after public hearing concerning the particular proposed expansion site. Water management projects that enhance or support County, state or federal ~~or regional~~ environmental projects, such as the Comprehensive Everglades Restoration Plan (CERP), are deemed to be a public necessity and shall be allowed in the Agricultural designation as provided herein. For the purposes of this section, a "water management project" means a water feature project and associated easements or dedications that provide for the in-ground ~~or~~ and above-ground storage of stormwater ~~to be conveyed by the County or other governmental agency to wetlands or to other components of the County or regional environmental project~~ and transfer of the water to an adjacent benefit area. Such water management projects may also produce aggregate to be used for the limited purposes set forth below, and shall be permitted only in the Agricultural area that ~~is~~ lies east of Homestead Air Reserve Base and SW 122 Avenue, bounded on the north by Military Canal and on the south by the C-103 Canal, subject to ~~meeting all of the~~ following conditions: 1) the water management project demonstrably supports a County, state or federal or regional ecosystem restoration project and is on a

site(s) deemed appropriate determined by DERM the County in consultation with , and the SFWMD or and the U.S. Army Corps of Engineers to be strategically designed and located to achieve the enhancement of the environmental project; 2) the water management project is shall be designed, constructed and operated in accordance with plans consistent with all prevailing zoning and environmental regulations, and the Homestead Air Reserve Base Air Installation Compatibility Use Zone Report, and is designed and constructed to incorporate best available technologies that isolate the project be isolated from salt intruded groundwater containing greater than 250 parts per million of chloride, including any vertical or horizontal migration of the salt intruded groundwater and shall not further saltwater intrusion as defined in Chapter 33, Miami Dade County Code; 3) the owner(s) of the property shall affirmatively commits to allow the completed excavation to be used for water management project in perpetuity, or conveys the property containing the water management project to the County or other governmental agency in a time certain manner to prevent delays in the environmental project; 4) the aggregate from the water management project shall not be sold, and shall only be used as fill for the water management project or associated ecosystem restoration project, or by the County for public infrastructure projects by the County, or for utility facilities and their ancillary uses including roadways to the extent such have been approved at public hearing; and, 5) the specific intended use and amount of fill requested to be excavated must shall be specified by the owner prior to obtaining zoning approval by the Board of County Commissioners, with the amount of fill excavated from the water management project not to exceed that amount needed necessary for to support the identified approved uses.

STAFF ANALYSIS

Background

In December 2007, Florida Power and Light (FPL), was granted an unusual use zoning variance (unusual use) with conditions to site a nuclear power plant on land designated "Environmental Protection". This Department's evaluation of the unusual use application stated that the County consumes approximately 40% more energy than the energy currently generated within the County, including the existing nuclear plants. Energy demand, both state and Countywide is projected to increase over the next 4 years, and nuclear power is an alternative energy that will help decrease the reliance on traditional non-renewable gas and coal sources. Based on these data, the Board of County Commissioners (Board) found that the FPL application was a public necessity.

As part of the unusual use application, FPL indicated that the nuclear reactors were to be built approximately 20 feet above mean sea level, in order to achieve adequate protection from hurricane storm surge and flooding. FPL proposed to extract limestone fill for the project from FPL-owned land that was designated "Open Land" on the Land Use Plan (LUP) map. After a thorough evaluation by the Miami-Dade County

Department of Environmental Resources Management (DERM), the proposed extraction site was found to contain coastal wetlands, disturbance of which is prohibited by adopted CDMP policy and Chapter 24, Miami-Dade County Code. As a result, the request to extract fill from this site was withdrawn from the unusual use application. FPL continues to evaluate options for obtaining fill, and has filed this text amendment to the CDMP to help promote one of these options; extraction of limestone fill from land owned by FPL but not considered a coastal wetland. The location of the proposed limestone excavation areas is on land designated Agriculture on the LUP map; a use not permitted in this CDMP land use designation. To allow the use in this designation, FPL filed a text amendment that would allow limestone excavation through the formation of a water management project in an Agriculture area.

As stated in the application request, FPL has reasoned that the agricultural area to the southeast of the Homestead Air Reserve Base (HARB), referred to as the East Glades, contains land that requires flood protection and therefore may be better suited for projects that enhance the wetland restoration projects to the east. Based on comments made by Mr. Charles LaPradd, Miami-Dade County Agricultural Manager, the East Glades was the first area farmed in south Miami-Dade County. While it is correct that the South Florida Water Management District (SFWMD) does use drawdown to aid the farmers in this area, this drawdown is performed once a year, on or about October 15, and therefore the groundwater levels, as stated by the applicant are not kept artificially low in the winter growing season. The East Glades area is a very active and productive agricultural area, although, as noted by the applicant, some fallow lands exist in this area. Mr. LaPradd has stated that most of the fallow land is owned by FPL or has been purchased for government purposes, such as CERP or the County's Environmentally Endangered Lands (EEL) program.

Evaluation of Amendment

The proposed amendment to the CDMP (refer to Attachment A) requests a change to the Agriculture interpretive text of the Land Use Element to allow water management projects as an approved use within a limited portion of the area designated as Agriculture. Furthermore, this amendment defines a "water management project" and lists five conditions that must be met prior to allowance of the project. A water management project that would meet these conditions would be determined to be a "public necessity" and therefore would be an allowed use within that portion of the agricultural area, defined by the interpretive text. The Department has evaluated the applicant's proposed text amendment and the Department has proposed three major categories of changes to the amendment: modification to the location of the text in the CDMP, a clarification to existing text on quarrying activities, and modifications to the proposed application text. A discussion of all proposed text and modifications to the text are discussed below.

Recommended Change 1

The first recommended change addresses the location of the proposed text amendment in the CDMP. The applicant has located the proposed text at the end of the 2nd

paragraph of the Agriculture text in the Land Use Element of the CDMP (page I-59). This paragraph addresses those uses allowed in the Agriculture area and provides criteria for location of uses supportive of agriculture. The paragraph also states that “other uses may be approved in the Agriculture area if deemed to be a public necessity, or if deemed to be in the public interest and the applicant demonstrates that no suitable site for the use exists outside the Agriculture area.” While the applicant’s text would deem the use as an allowed use and a “public necessity”, the Department recommends that water management projects be more appropriately discussed in conjunction with existing text that address quarry activities as a use. (page I-59). A water management project involves excavation activities and could be developed for the purpose of obtaining fill material. The conditions proposed for the new text are to regulate the location, design, construction and use of fill associated with the excavation activities. To accurately reflect that this use is tied to excavation and to underscore that such use is not deemed a “public necessity” unless all of the proposed conditions are met, the Department recommends that the proposed text amendment follow the existing CDMP quarrying activity language.

Recommended Change 2

The existing text on quarrying uses states that the use “may continue operation and be considered for approval of expansion”. Quarry activities in Agriculture designated areas are not an as-of-right use. Each request for an expansion of an existing excavation on land designated agriculture must be evaluated and approved by the Board after a public hearing. Therefore to clarify the existing CDMP text, the Department recommends the inclusion of “after public hearing concerning the particular proposed expansion site”. This wording more clearly states that quarrying activities and ancillary uses in the Agriculture area require a public hearing before continuation of an operation or expansion of an operation.

Recommended Change 3

The Departments of Planning and Zoning and Environmental Resources Management (DERM), recommend several changes to the proposed text application. For purposes of evaluation, the applicant’s proposed text has been divided into segments. Each segment of text is then evaluated and the reasons for the recommended changes are described.

Proposed Text: Water management projects that enhance or support County, state or federal or regional environmental projects, such as the Comprehensive Everglades Restoration Plan (CERP), are deemed to be a public necessity and shall be allowed in the Agriculture designation as provided herein.

Discussion and Department Recommendations: The County has realized a loss of its agricultural lands to competing uses. To avoid such loss, the County in recent years has added policies to the CDMP to protect viable agriculture (Land Use Goal, Policies LU-1P, LU-1R, LU-1S, LU-8C, and CON 6-C). Additionally, the encouragement of “agriculture as a viable economic use of suitable lands” is identified as a long-standing concept embodied in Miami-Dade County’s CDMP (pg I-69).

The CDMP also includes policies that encourage the protection of natural resources and recognize the significance of CERP (Objective LU-3, CON-7J and text in the Open Land and Environmental Protection land use categories). However, most of these policies are related to ensuring the implementation of CERP and the allowance of CERP projects in the Open Land and Environmental Protection land use categories where the actual CERP projects are located.

The Legislative Intent of the CDMP recognizes that “a particular application may bring into conflict, and necessitate a choice between, different goals, priorities, objectives, and provisions of the CDMP.” Both the preservation of agriculture and the consistency with CERP objectives are important to the future of the County. The filed application could result in a loss of over 800 acres of agricultural land, and is based on an assumption that water management projects are necessary in this area as additional enhancement to planned ecosystem restoration projects. To date, the applicant has not demonstrated that enhancement projects are necessary in this area, nor has DERM or any state or federal agencies indicated that a water management project would benefit the current CERP project. Without a demonstration of need for the environmental enhancements, the Department cannot determine that a water management project resulting in a loss of agricultural land is consistent with the CDMP objectives and policies. Therefore, the need for these types of projects should be demonstrated prior to approval of the CDMP text amendment.

Additionally, the Department recommends that applicant’s language be changed to define a “regional” environmental project as a “state or federal” environmental project.

Proposed Text: For the purposes of this section, a “water management project” means a water feature project and associated easements or dedications that provide for the in-ground or and above-ground storage and transfer of stormwater to an adjacent benefit area be conveyed by the County or other governmental agency to wetlands or to other components of the County or regional environmental project. Such water management projects may also produce aggregate to be used for the limited purposes set forth below, and shall be permitted only in the Agricultural area that is lies east of Homestead Air Reserve Base and SW 122 Avenue, bounded on the north by Military Canal and on the south by the C-103 Canal, subject to meeting all of the following conditions:

Discussion and Department Recommendations: The applicant has defined the “water management project as a “water feature”; however, this terminology may be confusing since a “water feature” as referenced in the Zoning Code can include a pond or fountain. Additionally, the applicant has proposed that the project provide for the in-ground or aboveground storage of stormwater. The low lying nature of land in southeastern Miami-Dade County dictates that a project created to hold stormwater for the purpose of later distributing the water to wetland areas, would incorporate both in-ground and above-ground components. Therefore, the wording was modified to include both.

The applicant has included wording that “stormwater” from a water management project would “be conveyed by the County or other governmental agency to wetlands or to other components of the County or regional environmental project.” The creation of a “water management project” as an effective enhancement to an already planned or existing environmental restoration project will necessitate the transfer of stormwater to the intended restoration project. It may be incorrect to state that the conveyance of water would be by the County or other governmental agency, since transfer of the water may be an integral component of the water management project. Therefore, the Department recommends that this language be replaced with text indicating that the stormwater would be transferred to an adjacent benefit area.

The final sentence of this section allows fill to be extracted from the water management project and limits the creation of these projects to an area east of Homestead Air Reserve Base and SW 122 Avenue, bounded on the north by Military Canal and on the south by the C-103 Canal. The Department concurs that water management projects should not be allowed in all areas designated Agriculture on the LUP map. The area described by the proposed text is approximately 881 acres in size and is bounded by the Military and C-103 canals. These canals hydrologically connect this portion of the Agriculture area to the Biscayne Bay Coastal Wetlands; a CERP project, which lies to the east on lands designated Open Land and Environmentally Protected on the LUP map. The Agriculture area designated by the proposed text lies within the CERP Alternative “O” study area for this CERP project. A project status as of January 2009 for this alternative is attached as Attachment B. According to the February 2009 status report, the project is on schedule and the draft Project Implementation Report is under Agency technical review. The plans and specifications for this project are anticipated to be certified by October 2010. Therefore, designation of this area may be appropriate should an enhancement project be necessary.

The applicant has proposed five conditions, which must be met prior to the allowance of the water management project in an agricultural area. Each condition is discussed below.

Proposed Text: 1) the water management project demonstrably supports a County, state or federal or regional ecosystem restoration project and is on a site(s) deemed appropriate determined by DERM the County in consultation with, and the SFWMD or and the U.S. Army Corps of Engineers to be strategically designed and located to achieve the enhancement of the environmental project;

Discussion and Department Recommendations: The first condition states that the water management project must support a County or regional ecosystem restoration project. As previously stated, the CDMP contains policies to protect viable agricultural land. Therefore, a proposed water management project, which would result in a loss of productive agricultural land, must not simply state that it supports the ecosystem restoration project, but should clearly demonstrate that the water management project is necessary for the enhancement of the adjacent ecosystem restoration project. To underscore the applicant’s responsibility to demonstrate this need, the Department

recommends the addition of the word “demonstrably”. Additionally, to maintain the consistency of terms, the reference to a regional project has been modified to “state or federal” project.

The text also states that the site should be “deemed appropriate” by DERM and the SFWMD or the U.S. Army. The determination of uses of land is at the discretion of the Board of County Commissioners. Therefore, the County should determine the appropriateness with input from DERM, the Corp of Engineers and the SFWMD. The Department recommends that the wording be modified accordingly.

Finally, the Department recommends that the County specifically determine the project to be strategically designed and located to achieve the enhancement of the environmental project. This change is recommended to ensure that a proposed enhancement project is located in a way that will achieve the maximum potential in the most cost effective manner. Many projects can be designed to provide a benefit to an area, however, if such projects are not properly planned, they may result in increased construction and/or maintenance costs. Therefore allowance of a water management project should be conditioned on the project’s ability to achieve a maximum benefit in the most cost efficient manner.

Proposed Text: 2) the water management project is shall be designed, constructed and operated in accordance with plans consistent with all prevailing zoning and environmental regulations, and the Homestead Air Reserve Base Air Installation Compatibility Use Zone Report, and is designed and constructed to incorporate best available technologies that isolate the project be isolated from salt intruded groundwater containing greater than 250 parts per million of chloride, including any vertical or horizontal migration of the salt intruded groundwater and shall not further saltwater intrusion as defined in Chapter 33, Miami Dade County Code;

Discussion and Department Recommendations: The second condition to be met states that the water management project should be designed, constructed and operated in accordance with plans consistent with all prevailing environmental regulations. The Department recommends that this language be modified to use the word “shall” and to include zoning regulations in addition to environmental regulations. Additionally, in accordance with correspondence (refer to Attachment C) received from the Homestead Air Reserve Base (HARB), the Department recommends that any excavation or construction in this area conform to the HARB Air Installation Compatibility Use Zone (AICUZ) Report. This is in keeping with CDMP Policy LU-4F which states that the County shall implement the AICUZ report guidelines through the Land Use Element, the County’s zoning Ordinance, and the Florida Building Code to provide for land use compatibility. Therefore, the Department recommends that the text reflect consistency with the AICUZ as a condition of the use.

The second portion of condition 2 states that the project be designed to be isolated from salt intruded groundwater containing greater than 250 parts per million (ppm) of chloride and shall not further saltwater intrusion as defined in Chapter 33, Miami-Dade County

Code. Saltwater intrusion is a major concern to the County due to the potential impact on its water supply. Once elevated chlorides intersect an excavation, whether from migration of the salt wedge or due to over excavation, the chlorides travel freely throughout the structure causing a furtherance of salt intrusion. Migration of salt intruded groundwater to the west may ultimately jeopardize the quality of water in the south Miami-Dade County wellfields (Newton, South Miami Heights, City of Homestead, and Florida City). Private water wells and agricultural wells may also be jeopardized by the furtherance of salt water intrusion in this area.

The CDMP states in its Open Land category (South Miami-Dade subarea) that “uses that could compromise groundwater quality shall not occur within three miles of Biscayne Bay.” This text is intended to address concerns of salt water intrusion from excavation activities in the eastern portion of the County. Since water management projects could compromise groundwater quality and would be located within 3 miles of Biscayne Bay, the most stringent design measures should be incorporated to protect the groundwater from salt intrusion.

On February 19, 2009, comments were received from the environmental community expressing concerns with the application (See Attachment C). These concerns regard the potential of open excavations to increase salt water intrusion and loss of fresh water through evaporation. DERM has also expressed concerns regarding the potential for excavations in this area to increase salt water intrusion based. However, DERM has indicated that with the inclusion of appropriate measures, such as liners, the impacts of salt intrusion could be mitigated.

To provide further protection of ground water from potential salt intrusion risks, the Department recommends that the project not only be “designed”, but also “constructed” in a manner that isolates it from those ground waters with elevated chlorides. Furthermore, the term “best available technologies” is added to ensure that features will be engineered to isolate the project from chlorides levels to protect present and future ground water supplies in this area. The use of distance between the bottom of an excavation and the 250 ppm chloride line as a protection strategy will not be sufficient to prevent future salt intrusion risks associated with storm events or sea level rise. Therefore, design criteria might include strategies such as impermeable liners. To emphasize that the protection from salt migration should apply to both vertical and horizontal migration, the Department also recommends adding the language “including any vertical or horizontal migration of the salt intruded groundwater”.

Proposed Text: 3) the owner(s) of the property shall affirmatively commits to allow the completed excavation to be used for water management project in perpetuity, or conveys the property containing the water management project to the County or other governmental agency in a time certain manner to prevent delays in the environmental project. The conveyance of property may be used towards mitigation credits as deemed appropriate by the applicable agencies;

Discussion and Department Recommendations: Condition 3 requires the owner of the property to allow the completed excavation to be used for the water management project in perpetuity or conveyed to the appropriate governmental agency. Based upon discussions with the SFWMD and DERM, projects that are or become integral parts of major restoration efforts should be under the full control of the governmental agency responsible for the operation or success of the project. Therefore, the Department recommends that any water management project in this area be conveyed to the appropriate governmental agency. The Department further recommends that language regarding timing of the water management project be added to the end of the condition so not to interfere with or delay any timetables established for the environmental project.

Proposed Text: 4) the aggregate from the water management project shall not be sold, and shall only be used as fill for the water management project or associated ecosystem restoration project, or by the County for public infrastructure projects by the County, or for utility facilities and their ancillary uses including roadways to the extent such have been approved at public hearing; and,

Discussion and Department Recommendations: Condition 4 prohibits the sale of excavated fill from the water management project, but allows the fill to be used for the water management project or by the County for public infrastructure projects. The use of fill for flood protection is a common practice in the County; however, the creation of a water management project should not be encouraged for the production of fill. By restricting the sale of fill and limiting the fill to specific the types of projects, the County would be discouraging the unnecessary creation of these projects. However, the Department recommends that the fill also be allowed for the associated ecosystem restoration project. The use of fill, and the type of project associated with the fill, must be approved at public hearing as a condition of the use.

Proposed Text: 5) the specific intended use and amount of fill requested to be excavated must shall be specified by the owner prior to obtaining zoning approval by the Board of County Commissioners, with the amount of fill excavated from the water management project not to exceed that amount needed-necessary for to support the identified-approved uses.

Discussion and Department Recommendations: The fifth and final condition states that the amount of fill to be excavated and the project at which the fill is to be used must be specified prior to obtaining zoning approval. In no case should the fill excavated exceed the amount necessary for the approved use. The Department recommends minor modifications for clarity of this condition.

Other Information - At time of filing of this amendment, the Department requested that FPL submit data regarding the location of the water management project, the fill requirements for the nuclear power plant, the size and depth of the water management project for purposes of obtaining fill, and a statement from the SFWMD or the U.S. ACOE regarding the necessity of the project as an enhancement to the abutting CERP project. On February 13, 2009 information regarding the location and fill requirements

was submitted by FPL. Based upon this information, included in Attachment D, the amount of fill necessary for this project is approximately 9 million cubic yards (cy), inclusive of the plant site and access roads. The water management project proposed, dependent on depth allowed, could yield from 2 million cy to approximately 8.3 million cy of fill. Additionally, approximately 0.6 million cy of fill are expected to be obtained during construction of a reservoir and nuclear block at the nuclear power plant site.

FPL, which is anticipated to file its request for the new nuclear units with the State of Florida through the Power Plant Siting Act (ss. 403.501-518, F.S.), in June 2009, is in the process of evaluating various alternatives for obtaining fill. One such alternative is by obtaining fill from water management projects for utility purposes as proposed by this text amendment. Another option is to obtain the fill from other nearby quarry sites. Subsequent to the filing of this application, the Miami-Dade County Parks and Recreation Department identified a need for a 60-acre lake at its West Kendall Park site. Initial calculations indicate that this site may be able to generate as much as 5 million cubic yards of fill, over ½ of the needed fill for the FPL expansion project. This source is presently under evaluation by FPL.

The Department agrees that conditions 4 and 5 should be added as safeguards to ensure the validity of the water management project. As indicated by the applicant, the intent of this text change is to benefit water flows to Biscayne Bay through rehydration of the Biscayne Bay Coastal Wetlands. This being the main intent, the Department cautions that approval of a project should not be based primarily on the need for fill. Therefore, the determination of the applicability of the project, as required in Condition 1 is essential.

Conclusions

The evaluation of the proposed text has shown that while there may be advantages to enhancement projects in and around the CERP area, potential environmental risks to excavation type activities in this area remain and a loss of agricultural land will be realized. Based on the evaluation above the following conclusions and recommendations are made:

1. The Department's recommended Change 1, which moves the applicant's text on water management projects to follow existing language on existing quarry activities, is more appropriately located since water management projects are a form of excavation that would produce fill material.
2. The Department's recommended Change 2, which adds language to the Agricultural text requiring public hearing for any quarry expansions in agricultural, clarifies the process. Such expansions of quarry activities in agricultural areas are not allowed as-of-right but must be evaluated and approved by the Board of County Commissioners. Therefore, additional language will help to clarify that such a use "may" occur in this area and provide guidance as to how to proceed.

3. The Department's recommended Change 3 consists of several recommended modifications to the applicant's proposed text to ensure that the project is necessary to a County, state or federal restoration project, and that impacts to the environment are minimized. Based on an evaluation of the text, the following conclusions were made:
- a. The proposed text allows water management projects as a use on lands designated "Agriculture" if various conditions are met. Such projects would result in a loss of agricultural land by allowing needed environmental and ecosystem restoration projects.
 - b. The CDMP recognizes that conflicts between policies may occur and the Board is instructed to consider the overall intention of the CDMP in order to ensure that the CDMP, as applied, will protect the public health, safety and welfare. To that end the proposed text change should result in a greater benefit to the County than is currently realized.
 - c. The need for a water management project in this area to enhance an ecosystem restoration project has not been thoroughly demonstrated by the applicant. Additionally, agencies such as the SFWMD and the USACOE have not provided comments to the Department confirming the need for an enhancement project. The Department has requested that documentation demonstrating the need for a water management project be provided by the applicant for inclusion into this evaluation. To date, only the information regarding the project's location and fill calculations has been submitted. Therefore, it remains uncertain if those agencies involved in the adjacent CERP project would find an enhancement project in this area to be necessary for the furtherance of CERP objectives.
 - d. Concerns regarding the furtherance of salt water intrusion in this area have been raised by DERM and the environmental community. Although the County has conditioned the use on design and construction to uses best available technologies that isolate the project from salt intruded groundwater, it is unclear if other precautions are necessary. Therefore, additional time, to evaluate all information regarding potential hydrologic impacts associated with excavation activities and to determine if in-ground water management projects are an appropriate activity at this location, is required. Additional information from various state and federal agencies involved in the Biscayne Bay Coastal Wetland and the south Miami-Dade hydrology should be sought regarding the environmental impacts that such project could yield.
 - e. As of the publication of the Initial Recommendations, comments have been received from HARB and the environmental interests (Attachment C). An evaluation of the project and comments from all stakeholders including the SFWMD and U.S. ACOE are necessary to determine if construction of a water management project in this location could result in any unknown complications or unintended consequences. The planning and design phases of the Biscayne Bay Coastal Wetlands CERP project has been

ongoing for nearly 7 years. The current project, Alternative "O" is on schedule and is slated for final approval by 2012. The inclusion of a water management project into the design may create complications, such as cost increases or project delays that are unknown to this Department. Therefore, to ensure a full understanding of the potential impacts created by this text amendments, additional time is necessary to obtain and consider comments from all stakeholders.

- 4) Additional time may be needed by the applicant to obtain the information necessary to demonstrate that the Agricultural text should be modified because there is a need for water management projects as an enhancement to established ecosystem restoration projects in this area.
- 5) Transmittal of the amendment will allow state and federal agencies, and other stakeholder in the area, the opportunity to comment on the merits of the application. Such information will provide a better insight into the potential need for and impacts of proposed water management project in this area.

Based on the above conclusions, the Department recommends TRANSMIT WITH CHANGE.

Consistency Review With CDMP Goals, Objectives, Policies, Concepts and Guidelines

The following CDMP Goals, Objectives, Policies, and Concepts will be furthered should the Application be adopted:

- Concepts (pg 1-69) Among the long-standing concepts embodied in Miami-Dade County's CDMP are the following: 2) Preserve and conserve land with valuable environmental characteristics, recreation uses or scenic appeal.
- CON-6B. Miami-Dade County shall develop guidelines for rock quarries that will provide high potential for the support of native flora and fauna and compatible recreational use in these areas once the quarrying operations have been completed.
- CON-7C. Miami-Dade County shall continue to promote the restoration and maintenance of the natural, surface water flow regimes into, and through wetland systems such as the Shark River Slough, Everglades National Park and the saline wetlands of southeastern Miami-Dade County.
- CON-7J. In evaluating applications that will result in alterations to wetlands, Miami-Dade County shall consider the applications' consistency with Comprehensive Everglades Restoration Program (CERP) objectives. Applications that are found to be inconsistent with CERP objectives may be denied.

- ICE-4E. Miami-Dade County shall promote better coordination of land use, natural resources and water supply planning, with special attention to approaches involving the management of the ecosystem.
- ICE-5B. Miami-Dade County shall work with the South Florida Water Management District to coordinate regional plans and programs, including the Lower East Coast Regional Water Supply Plan, the Surface Water Improvement and Management Plan for Biscayne Bay, the Biscayne Bay Regional Restoration Coordination Team Action Plan, and the Comprehensive Everglades Restoration Plan, with Miami-Dade County plans and programs.

The following CDMP Goals, Objectives, Policies, and Concepts will be impeded should the Application be adopted:

- LU-1P: Expansion of land uses in agricultural areas that are related to agriculture and help to promote eco-tourism in the agricultural areas.
- LU-1S The CDMP should be consistent with the Miami-Dade County Strategic Plan. Key outcomes of the Strategic Plan that are relevant to the Land Use element of the CDMP include ..., protection of viable agriculture and environmentally-sensitive land, ...
- LU-8C Through its planning and programs the County shall continue to protect and promote agriculture as a viable economic use of land in Miami-Dade County.
- Text Open Land Subarea 5 (South Miami-Dade) (pg 1-64) ... Uses that could compromise groundwater quality shall not occur within three miles of Biscayne Bay.
- Concepts (pg 1-69) Among the long-standing concepts embodied in Miami-Dade County's CDMP are the following: ..14) Encourage agriculture as a viable economic use of suitable lands.

ATTACHMENT A
APPLICATION

This page intentionally left blank

**APPLICATION REQUESTING AMENDMENT TO THE
COMPREHENSIVE DEVELOPMENT MASTER PLAN**

2008 OCT 31 P 2:33

PLANNING & ZONING
METROPOLITAN PLANNING SECT

1. APPLICANT

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

2. APPLICANT'S REPRESENTATIVE

Jeffrey Bercow, Esq.
Michael Radell, Esq.
Bercow Radell & Fernandez, P.A.
200 S. Biscayne Boulevard
Miami, Florida 33131

By:


Jeffrey Bercow, Esq.

Date: October 30, 2008


Michael Radell, Esq.

3. DESCRIPTION OF REQUESTED CHANGES

It is recommended that the Land Use Element be amended as follows:

Revise the text of the Agriculture land use designation in the Land Use Element of the CDMP for the Agricultural area that is generally east and south of Homestead Air Reserve Base to allow water management projects subject to certain specific criteria that will ensure such activities are consistent with the goals, objectives and policies of the CDMP.

A. Revisions to the Land Use Element

Revise Agriculture Language, CDMP pp. I-58 through I-59:

The area designated as "Agriculture" contains the best agricultural land remaining in Miami-Dade County. As stated in the Miami-Dade County Strategic Plan, approved in 2003 by the Board of County Commissioners, protection of viable agriculture is a priority. The principal uses in this area should be agriculture, uses ancillary to and directly supportive of agriculture such as packing houses, and farm residences. Uses ancillary to, and necessary to support the rural residential community of the agricultural area may also be approved, including houses of worship; however, schools shall not be approved in Agriculture areas but should be located inside the UDB in accordance with Policy EDU-2.A.

In order to protect the agricultural industry, uses incompatible with agriculture, and uses and facilities that support or encourage urban development are not allowed in this area. Residential development that occurs in this area is allowed at a density of no more than one unit per five acres. Creation of new parcels smaller than five acres for residential use may be approved in the Agriculture area only if the immediate area surrounding the subject parcel on three or more contiguous sides is predominately and lawfully parcelized in a similar manner, and if a division of the subject parcel would not precipitate additional land division in the area. No business or industrial use should be approved in the area designated Agriculture unless the use is directly supportive of local agriculture production, and is located on an existing arterial roadway, and has adequate water supply and sewage disposal in accordance with Chapter 24 of the County Code, and the development order specifies the approved use(s); however, packing houses for produce grown in Florida are not restricted to locating on an existing arterial roadway. Other uses, including utility uses compatible with agriculture and with the rural residential character may be approved in the Agriculture area only if deemed to be a public necessity, or if deemed to be in the public interest and the applicant demonstrates that no suitable site for use exists outside the Agriculture area. Water management projects that enhance or support County or regional environmental projects, such as the Comprehensive Everglades Restoration Program (CERP) are deemed to be a public necessity. For the purposes of this section, a "water management project" means a water feature and associated easements or dedications that provide for the in-ground or above ground storage of water, to be conveyed by the County or other governmental agency to wetlands or to other components of the County or regional environmental project. Such water management projects may also produce aggregate to be used for the limited purposes set forth below, and shall be permitted in the Agricultural area that is east of Homestead Air Reserve Base and SW 122 Avenue, bounded on the north by Military Canal and on the south by the C-103 Canal, subject to meeting all of the following conditions: (1) the water management project supports a County or regional ecosystem restoration project on a site(s) deemed appropriate by DERM, and the SFWMD or the U.S. Army Corps of Engineers; (2) the water management project is designed, constructed and operated in accordance with plans consistent with all prevailing environmental regulations and is designed to be isolated from salt intruded groundwater containing greater than 250 parts per million of chloride and shall not further saltwater intrusion as defined in Chapter 33, Miami-Dade County Code; (3) the owner(s) of the property affirmatively commits to allow the completed excavation to be used for water management project in perpetuity, or conveys the property containing the water management project to the County or other governmental agency; (4) the aggregate from

the water management project shall not be sold and shall only be used as fill for the water management project, or for public infrastructure projects by the County, or for utility facilities and ancillary uses; and (5) the use and amount of fill to be excavated must be specified by the owner prior to obtaining zoning approval by the Board of County Commissioners, with the amount of fill excavated from the water management project not to exceed that amount needed to support the identified uses.

Existing quarrying and ancillary uses in the Agriculture area may continue operation and be considered for approval of expansion.

In an effort to enable compatible diversification of the economy of Agriculture areas and provide additional land use options for owners of properties that surround structures having historical significances, after such time as the County adopts procedures for the establishment of Thematic Resource Districts (TRDs) pursuant to Policy LU-6L, and a TRD including architectural and landscape design guidelines is established in an area designated Agriculture, additional uses may be authorized in such TRDs established in Agriculture areas. Such additional uses must be designed and developed in accordance with TRD standards, must promote ecotourism activities in the Agriculture area, and must not be incompatible with nearby agriculture activities.

Also included in the Agriculture area are enclaves of estate density residential use approved and grandfathered by zoning, ownership patterns and platting activities which predate this Plan. The grandfather provisions of the Miami-Dade County Zoning Code shall continue to apply in this area except that lots smaller than 15,000 square feet in area are not grandfathered hereby. Moreover, all existing lawful uses and zoning are deemed to be consistent with this Plan unless such a use or zoning: (a) is found through a subsequent planning study, as provided in Policy LU-4E, to be inconsistent with the foregoing grandfather provisions or with the CDMP as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map". This paragraph does not, however, authorize the approval or expansion of any use inconsistent with this plan. To the contrary, it is the intent of this Plan to contain and prevent the expansion of inconsistent development in the Agriculture area.

4. REASON FOR CHANGE

Summary. The Agricultural area in Miami-Dade County consists of two discrete farming areas - the vast lands located west of the urbanized area south of Kendall Drive, including the Redland area, and a remnant of the East Glades area located near the southeast coast of Biscayne Bay in the vicinity of the Homestead Air Reserve Base. Both areas have been in agricultural production since the early years of Miami-Dade County. However, the SW/Redland area and the East Glades are dramatically different environments. The SW/Redland area is well above the water table and subject to few environmental constraints. On the other hand, the East Glades is a lowland area adjacent to Biscayne National Park and the coastal wetlands of southeast Miami-Dade County. Unlike the SW/Redland area, the farmlands of the East Glades are completely dependent

on water levels being kept at artificially low levels during the winter growing season in order to keep the fields from flooding.

The continuation of the dry season drawdown of groundwater levels appears to be in direct conflict with: (1) the environmental restoration objectives of the Comprehensive Everglades Restoration Plan (CERP) for the Biscayne Bay Coastal Wetlands, and (2) the overriding objective of controlling salt water intrusion in the Biscayne Aquifer. Therefore, it is proposed that the CDMP Land/Use Element text concerning the Agricultural area be amended to permit water management projects in the East Glades subject to certain specific criteria. As long as the future water management project area is designed and constructed subject to stringent environmental controls, the resulting lake(s) can be managed and operated consistent with the CERP restoration projects proposed for the Biscayne Bay Coastal Wetlands.

Background. The areas designated for "Agriculture" on the Land Use Plan map are considered to be prime agricultural lands and are protected from encroachment by land uses that are not generally supportive of agriculture or related ancillary uses. In general, the introduction of new uses into the Agricultural area is limited to those uses that are "compatible with agriculture and with a rural residential character . . . only if deemed to be a public necessity or if deemed to be in the public interest and the applicant demonstrate that no suitable site for the use exists outside the Agricultural area." The intent of the proposed text is to identify water management projects that satisfy prescribed criteria as a public necessity and to allow such projects within the East Glades Agricultural area.

The geographic area south and east of the Homestead Air Reserve Base is a suitable and appropriate location for water management projects subject to stringent environmental regulation and demonstrated environmental benefit and/or compatibility with projects such as the Biscayne Bay Coastal Wetlands projects proposed by CERP. Unlike tree farms or row crops, water management projects would help to reverse the impact of artificially controlled water levels or the dry season draw downs that have been practiced in these areas for the last sixty years. In addition, land in this area, if converted to water management projects would be managed so as not to become a source of undesirable exotic upland plants species which are typical of farm fields that are abandoned or allowed to lie fallow.

The earliest canals in southeast Miami-Dade County were dredged and operated by those private property owners who farmed the East Glades. The initial projects consisted of the dredging of the North Canal (located along S.W. 328 Street between US1 and Biscayne Bay) and the Florida City Canal (which was dredged from US 1 to Biscayne Bay along S.W. 344 Street). Farmers also installed large pumps near the coast of Biscayne Bay in both canals in order to promote an early season draw down of the water table in the East Glades area in the early fall. This drawdown of the water table allowed farmers to plant row crops in October so that they were able to grow vegetables in the winter for the rest of the Country. The pumps were eliminated when the Corps completed the L-31E canal and drainage structures along the southeast coast which were designed to prevent

salt water intrusion but could also be operated to allow for early season draw downs in the East Glades area through the operation of controlled structures near the coast. Since 1968, static ground water levels in the East Glades area has been reduced annually beginning October 15 from 2.2 feet down to 1.4 feet in order to allow farmers to plant winter crops. Although significant portions of the higher and drier portions of the East Glades have been developed in recent years, many of the areas formerly used for row crops have been transitioning to tree farms. Nonetheless, many of the major land holders and farmers in the East Glades area have expressed their strong support for continued dry season draw downs even in areas being converted to tree farms because many of those areas can only be harvested after the dry season draw down.

Although most of the Agricultural area in the East Glades is being farmed, there are a growing percentage of areas that are left fallow and appear to be abandoned farm lands. These fallow fields have become overgrown with invasive exotic plants and trees which further exacerbates County and State efforts to control and eliminate exotic plant species on the Coastal Wetlands to the east, and causes difficulties for any managed agricultural lands in this area.

The Water Management Project Alternative. Although a water management project in the East Glades would take that land area out of agricultural production, the benefits provided by properly designed and implemented water management projects in this area outweigh the loss of land for agriculture production. Unlike every other agricultural area in Miami-Dade County, the East Glades is the only farming area that is completely dependent upon a reduction of the water table at the very beginning of the dry season (October 15). Unfortunately, that is the very time of the year that maintenance of water levels is important for continued hydration of coastal wetlands and the prevention of salt water intrusion. Although the information is preliminary, dry season draw downs may contribute to increased salt water intrusion in southeast Miami-Dade County, and these draw downs could result in the loss of significant amounts freshwater to coastal ecosystems.

One advantage of water management projects within these areas is that they can occur in a manner that is compatible with and even enhances the coastal wetlands rehydration projects and which does not require dry season draw downs or compensation if draw downs are eliminated. In addition, the water management projects can be designed as impoundment areas that could serve as a source of re-hydration water to be pumped into the coastal wetlands, provided that the impoundment is impervious and graded so that it has the ability to retain water at a level higher than the surrounding water table. By inclusion of the limiting conditions in the proposed text, it is believed that water management projects can be permitted within the East Glades area in a manner that is both compatible with existing agriculture and complementary to the coastal wetlands project to the east.

Consistency with Plan Agricultural Policies. Policy LU-1S of the Land Use Element requires the CDMP to be consistent with the Miami-Dade County Strategic Plan adopted by the County Commission through Resolution R-664-03. One of the "key outcomes" of

the Strategic Plan that is relevant to the County's development policies is the "protection of viable agricultural and environmentally sensitive lands." (Miami-Dade County Strategic Plan, pg. 19). The area in question is shown on Figure 12 of the Land Use Element as a "Future Wetland" and requires extensive seasonal drainage activities to remain in active agricultural use. Without significant human intervention on an annual basis, the area is unsuited for agricultural uses. As the continued viability of the area for agricultural purposes is in doubt, the use of the area for water management projects that satisfy prescribed criteria is not inconsistent with Policy LU-1S.

In the past, the position has been taken that the Strategic Plan, as incorporated into the CDMP through Policy LU-1S, requires that there be "no net loss" of agricultural lands outside the UDB. This position fails to take into account how the Strategic Plan is organized and is inconsistent with the Goals and Policies of the CDMP. The Strategic Plan is intended to present County staff with a "game plan" to guide future decision-making. (Strategic Plan at 2). Along with general goals, referenced in the Strategic Plan as "key priority outcomes," the Strategic Plan provides "measuring sticks" intended to help determine if the County is moving toward the stated goals. The "outcomes" cover a wide range of issues, from economic development, to public safety, to recreational opportunities offered County residents.

The "priority key outcome" relevant to agricultural lands is the "[p]rotection of viable agriculture . . . lands." (Strategic Plan at 19). The "no net loss" language appears only as a measurement of the County's success in complying with the priority outcome of the Strategic Plan; "no net loss" is not a key outcome of the Strategic Plan. While the CDMP incorporates, through Policy LU-1S, the Strategic Plan's goal of protecting viable agriculture lands, the "no net loss" concept simply provides the County with a performance standard. It is not a "policy" or "goal" of either the Strategic Plan or the CDMP, and therefore should have no bearing on this proposed amendment relating to the Agriculture land use designation.

DISCLOSURE OF INTEREST

This form or a facsimile must be filed by all applicants having an ownership interest in any real property covered by an application to amend the Land Use Plan map. Submit this form with your application. Attach additional sheets where necessary.

APPLICANT (S) NAME AND ADDRESS:

APPLICANT A: Florida Power & Light Company

APPLICANT B: _____

APPLICANT C: _____

APPLICANT D: _____

APPLICANT E: _____

APPLICANT F: _____

APPLICANT G: _____

APPLICANT H: _____

Use the above alphabetical designation for applicants in completing Sections 2 and 3, below.

2. **PROPERTY DESCRIPTION:** Provide the following information for all properties in the application area in which the applicant has an interest. Complete information must be provided for each parcel.

<u>APPLICANT</u>	<u>OWNER OF RECORD</u>	<u>FOLIO NUMBER</u>	<u>SIZE IN ACRES</u>
<u>N/A</u>			

3. For each applicant, check the appropriate column to indicate the nature of the applicant's interest in the property identified in 2., above.

<u>APPLICANT</u>	<u>OWNER</u>	<u>LESSEE</u>	<u>CONTRACTOR FOR PURCHASE</u>	<u>OTHER (Attach Explanation)</u>
<u>N/A</u>				

4. **DISCLOSURE OF APPLICANT'S INTEREST:** Complete all appropriate sections and indicate N/A for each section that is not applicable.

- a. If the applicant is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

INDIVIDUAL'S NAME AND ADDRESS

PERCENTAGE OF INTEREST

N/A

- b. If the applicant is a CORPORATION, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: where the principal officers or stockholders, consist of another corporation (S), trustee(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

CORPORATION NAME: FPL Group, Inc.

NAME, ADDRESS, AND OFFICE (if applicable)

PERCENT AGE OF STOCK

Publicly traded on the New York Stock Exchange (NYSE) as FPL

- c. If the applicant is a TRUSTEE, list the trustee's name, the name beneficiaries of the trust, and the percentage of interest held by each. [Note: where the beneficiary/beneficiaries consist of corporation(s), partnership(s), or other similar entities, further disclosure shall be required which discloses the identity of the individual (s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

TRUSTEES

NAME: N/A

BENEFICIARY'S NAME AND ADDRESS

PERCENTAGE OF INTEREST

- d. If the applicant is a PARTNERSHIP or LIMITED PARTNERSHIP , list the name of the partnership, the name and address of the principals of the partnership, including general and limited partners and the percentage of interest held by each partner. [Note: where the partner (s) consist of another partnership(s), corporation (S) trust (S) or other similar entities, further disclosure shall be required which discloses the identity of the individual (s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

PARTNERSHIP NAME: N/A

NAME AND ADDRESS OF PARTNERS

PERCENT AGE OF
INTEREST

- e. If the applicant is party to a **CONTRACT FOR PURCHASE**, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

NAME AND ADDRESS

PERCENT AGE OF
INTEREST

N/A

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers if a corporation, partnership, or trust.

N/A

5. **DISCLOSURE OF OWNER'S INTEREST:** Complete only if an entity other than the applicant is the owner of record as shown on 2.a., above.

- a. If the owner is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

INDIVIDUAL'S NAME AND ADDRESS

PERCENT AGE OF
INTEREST

N/A

- b. If the owner is a **CORPORATION**, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: where the principal officers or stockholders consist of another corporation(s), trustee(s) partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

CORPORATION NAME: N/A

NAME, ADDRESS, AND OFFICE (if applicable)

PERCENTAGE OF STOCK

- c. If the owner is a TRUSTEE, and list the trustee's name, the name and address of the beneficiaries of the trust and the percentage of interest held by each. [Note: where the beneficiary/beneficiaries consist of corporation(s), another trust(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

TRUSTEE'S

NAME: N/A

BENEFICIARY'S NAME AND ADDRESS

PERCENT AGE OF INTEREST

- d. If the owner is a PARTNERSHIP or LIMITED PARTNERSHIP, list the name of the partnership, the name and address of the principals of the partnership, including general and limited partners, and the percentage of interest held by each. [Note: where the partner(s) consist of another partnership(s), corporation(s) trust(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

PARTNERSHIP NAME: N/A

NAME AND ADDRESS OF PARTNERS

PERCENT AGE OF OWNERSHIP

- e. If the owner is party to a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

NAME, ADDRESS, AND OFFICE (if applicable)

PERCENTAGE OF INTEREST

N/A

Date of Contract: _____

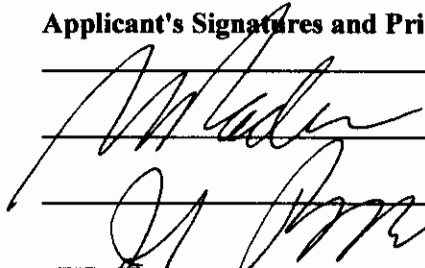
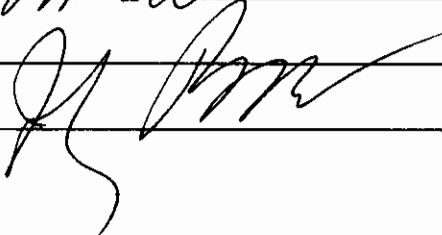
If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

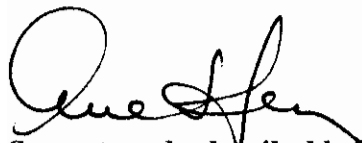
N/A

For any changes of ownership or changes in contract for purchase subsequent to the date of the application, but prior to the date of the final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application to the best of my knowledge and behalf.

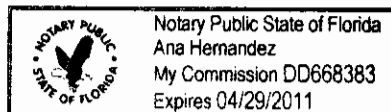
Applicant's Signatures and Printed Names



Sworn to and subscribed before me
this 31 day of October, 2008.

Notary Public, State of Florida at Large (SEAL)
My Commission Expires: 4/29/2011



Disclosure shall not be required of any entity, the equity interest in which are regularly traded on an established securities market in the United States or other country; or pension funds or pension trusts of more than five thousand (5,000) ownership interests; any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests including all interests at each level of ownership, and no one pension or entity holds more than a total of five (5) percent of the ownership interest in the partnership, corporation or trust; or of any entity, the ownership interest of which are held in a partnership, corporation or trust consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

FLM C:INSTRUCTIONS REPORTOct2001.docRevised 8116101

This page intentionally left blank

ATTACHMENT B

**BISCAYNE BAY COASTAL WETLANDS
ALTERNATIVE “O” STATUS REPORT**

This page intentionally left blank

Project Name:	C&SF:CERP:BBCW	Project ID:	113846
Reporting Period:	Previous Month	Report Date:	2-Feb-09
Project Status:	GREEN	Data Date:	2-Feb-09
PM, CORPS:	Allen, Shauna R	PM, NFS:	Morrison, M.

Explanation if not Green:**Project Summary:**

Alternative O is the conceptual plan for the study area to be implemented via 2 PIRs. The Tentatively Selected Plan for the first PIR is Alternative O Phase I. The first increment will include most of the features of the Deering Estate features including a 100 cfs pump, spreader canal, culverts, and improvements to a canal. The Cutler Wetlands features include a 400 cfs pump, culverts, a canal, and restoration of the Lennar Flowway. In the L-31E Flowway/North Canal Flow-way the features will include pumps, a spreader canal, and several culvert structures to manage flow between C-102, L-31E, Military Canal, and C-103 and the nearby restoration areas. No construction activities are recommended in the first increment for the Barnes Sound area.

Summary of Work Completed During this Reporting Period:

The PDT compiled the draft PIR. The draft PIR is undergoing Agency Technical Review.

Work Planned for Next Reporting Period:

Team will revise the DPIP per Agency Technical Review and submit it to HQ.

Potential or Active Issues and Actions Taken to Resolve Issues:

None

Project 113846**Milestones and Status**

Milestones Names	Baseline	Current Approved	Forecast Schedule
PIR Initiated		13-Sep-02	13-Sep-02 A
Notice of Intent to Prepare NEPA Issued	6-Sep-02	20-Feb-03	20-Feb-03 A
PIR Initial In-Progress Review Meeting		14-Nov-03	14-Nov-03 A
FSM Material Submitted to HQ	22-Aug-03	17-Sep-04	17-Sep-04 A
Feasibility Scoping Meeting (FSM)	22-Sep-03	2-Nov-04	2-Nov-04 A
Initiate MSR / Initiate Assurance Modeling		1-Sep-06	1-Sep-06 A
Submit AFB Documentation to HQ/SAD	24-Aug-04	21-Sep-07	21-Sep-07 A
Alternative Formulation Briefing (AFB)	24-Aug-04	3-Dec-07	3-Dec-07 A
Receive Draft FWCA Report	13-Jul-04	9-Jul-08	9-Jul-08 A
Receipt of Final CAR/FWCA Report on PIR # 1	21-Jul-05	2-Jan-09	2-Feb-09
Draft PIR #1 Published in Federal Register		4-Feb-09	17-Apr-09
P&S Initiated		4-Feb-09	17-Apr-09
Sponsor's Letter of Intent on PIR #1 Received	24-Oct-05	3-Apr-09	16-Jun-09
Transmit Draft Final PIR #1 to - CESAD & HQ USACE		15-Jun-09	30-Sep-09
Final PIR #1/NEPA Report published in Federal Register (FR)		17-Aug-09	4-Dec-09
Chief's Report on PIR #1 Completed		31-Aug-09	18-Dec-09
ASA(CW) Submittal of Letter on PIR #1 to Congress		5-Apr-10	21-Jul-10
BCOE Certification of 100% Plans & Specifications for PIR #1		2-Aug-10	14-Oct-10
PCA Initiated (L400)		24-May-11	9-Sep-11
PCA Executed		4-Jan-12	20-Apr-12

Baseline is either approved PMP or MIS1.0 whichever is later. Current Approved is the same as the Baseline unless the project undergoes Change Control Approval (CCA) to revise the Baseline.

ATTACHMENT C
CORRESPONDENCE

This page intentionally left blank



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

Mr. Marc C. LaFerrier
Director, Miami-Dade County Department of Planning and Zoning
Stephen P. Clark Center
111 NW 1st Street, 11th floor
Miami, FL 33128

2009 JAN 15 P 4: 07
PLANNING & ZONING
METROPOLITAN PLANNING SECT

Colonel William B. Binger
Commander, 482d Fighter Wing
29050 Coral Sea Blvd, Bldg 360
Homestead ARB FL 33039-1299

Dear Mr LaFerrier

I am writing in response to Florida Power and Light's (FPL) proposal to mine land in the vicinity of Homestead Air Reserve Base (HARB). We understand that the action will result in the creation of wildlife attractive water bodies, potentially increasing the risk of Bird Air Strike Hazards (BASH). Bird air strikes can cause loss of life and costly damage to aircraft, as well as harm to the birds themselves. I have reviewed FPL's proposal and concerns raised by our staff, and have no objection to it provided FPL takes the following steps:

- 1) Follow Federal Aviation Administration circular 150/5200-33B, "Hazardous Wildlife Attractants on or Near Airports," recommendations with respect to the depth and slope of the pits and their shorelines, respectively.
- 2) Agree to immediately implement a BASH program to combat increased bird populations in the area if the HARB BASH manager and/or flight safety director conclude that it is necessary to maintain adequate safety levels.

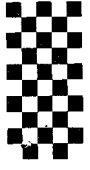
We want to be a good neighbor and understand the need for a reliable, storm resistant power supply, but think it should be weighed against the financial and public safety risks to both the Air Force and the local community if these ponds create a significant BASH hazard. We hope you understand our concern and our responsibility to maintain a safe facility. Please contact Larry Ventura at 305-224-7163 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "WBB", is written over a horizontal line.

WILLIAM B. BINGER, Col, USAFR

Cc: Ms. Paula Church, Section Supervisor, MDCC Dept P&Z



LaFerrier

**1000 Friends of Florida * Clean Water Action
Everglades Foundation * Everglades Law Center
Friends of the Everglades * National Parks Conservation Association
Sierra Club Miami Group**

February 19, 2009

Via Facsimile and U.S. Mail

**Director Marc LaFerrier
Miami-Dade County Department of Planning and Zoning
111 NW 1st Street, Suite 1210
Miami, Florida 33128**

**Director Carlos Espinosa
Miami-Dade County Department of Environmental Resource Management
701 NW 1st Court, Suite 200
Miami, FL 33136**

Re: October 2008 CDMP Amendment Application No. 1

Dear Director LaFerrier & Director Espinosa:

The organizations listed below urge you to deny Florida Power and Light's (FPL) Comprehensive Master Plan amendment to include mining in Miami-Dade's agricultural lands. Rock mining projects and water consumption included within FPL's request threaten Miami-Dade's water supply, public health and Florida's Everglades.

Rock mining pits are not a public necessity nor are they suitable "water management structures" to support the Comprehensive Everglades Restoration Plan (CERP). Additionally, rock mining in Miami-Dade's agricultural lands are in conflict with Everglades Restoration efforts and puts Florida's water supply in jeopardy.

The excavation and fill activities proposed in this application are fundamentally in conflict with restoration of these freshwater wetlands and the Everglades ecosystem, and directly impact the hydrology of Everglades National Park. The quarry pits created by excavation interfere with the water table levels in the region. A rock mine can fundamentally change the groundwater characteristics. It will draw water out of nearby marshes by creating less resistance to flowing water, turning wetlands into brackish areas and increasing saltwater intrusion into

surrounding aquifer.¹ As observed in rock mines in other parts of Miami-Dade County, "lakes are of questionable environmental value; for example, the presence of lakes increases the seepage of precious groundwater from other Everglades wetlands."²

Mining would effectively increase water use from an already strained system. In a report on hard rock mining, the National Research Council found that "the original groundwater flow pattern around a pit may be altered by dewatering or by the presence of the lake, which presents large amounts of water for evaporation that were previously present as groundwater."³ The National Research Council has found, "Pits can influence local hydrology through interaction with the local aquifers, interception of runoff and precipitation, and lake surface evaporation...the existence of a pit creates a permanent higher evaporation sink and can lower the water table off site."⁴

The mining proposed could pull water from the ground through evaporation. Evaporation over a large open-water quarry pit is higher than evapotranspiration over a vegetated area as currently exists. Therefore, as water is evaporated from the surface, it is replaced with adjacent groundwater and potable water supply. Thus rock mining increases the demand for water placing additional burden on the environment. This directly compromises restoration efforts that are targeted at replenishing freshwater benefits in Miami-Dade County.

In order to protect our water supply, a cumulative impact analysis must be performed which considers all existing and proposed mines in the immediate area. As the National Research Council concluded, "groundwater withdrawal by several mines may deplete a regional aquifer that is shared by agriculture or urbanization. Each incremental withdrawal introduces potentially expanded impacts that need to be evaluated during the EIS process."⁵

The preservation of the last remaining tracts of viable agricultural land in Miami-Dade County must be retained for food production and our economy. Limestone excavation is not a compatible or ancillary use to the agricultural industry and should not be permissible in the best agricultural land remaining in Miami-Dade County.

The proposed CDMP text amendment conflicts with policy LU-15 which states that the CDMP shall be consistent with the Miami-Dade Strategic Plan adopted by the County Commission on June 3, 2003 which provides for "no net loss of agricultural land."⁶

¹ Sierra Club v. Flowers, 423 F. Supp. 2d 1273, 1295-96 (S.D. Fla. 2006).

² National Research Council, et. al., "Hardrock Mining on Federal Lands" at 203 (1999).

³ National Research Council, et. al., "Hardrock Mining on Federal Lands" at 203 (1999).

⁴ National Research Council at 204 (1999).

⁵ Id. at 204 (1999).

⁶ Miami-Dade County Strategic Plan (2003).

We ask that you recommend to the Board of County Commissioners denial of this proposed amendment.

Thank you for the opportunity to comment on this CDMP amendment application. If you need additional information, please contact Dawn Shirreffs at 305-653-9101.

Sincerely,

Kirk Fordham
Chief Executive Office
Everglades Foundation

Dawn Shirreffs
Florida Program Coordinator
Clean Water Action

Kahlil Kettering
Biscayne Restoration Program Analyst
National Parks Conservation Association

Laura Reynolds
Executive Director
Tropical Audubon Society

Richard Grosso, Esq.
Executive Director/General Council
Everglades Law Center

Madelyn Matteo
Executive Director
Friends of the Everglades

Debbie Matthews
Conservation Group Chair
Sierra Club Miami Group

Joanne Davis
Community Planner
1000 Friends of Florida

Cc: Colonel Grosskruger
U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, Florida 32207

Ivan Fannin
U.S. Army Corps of Engineers
Miami Regulatory Office
9900 SW 107th Ave, Suite 203
Miami, FL 33176

Carol Wehle
Executive Director
South Florida Water Management District
P.O. Box 24680
West Palm Beach, FL 33416-4680

Kenneth G. Ammon
Deputy Executive Director, Everglades Restoration
P.O. Box 24680
West Palm Beach, FL 33416-4680

ATTACHMENT D

LOCATION AND FILL DATA FOR FPL PROJECT

This page intentionally left blank



February 13, 2009

To: Ms Paula Church, Miami Dade County, Department of Planning and Zoning

Subj: Request for Information related to CDMP Text Amendment Request

We have received your email of February 6, 2009 requesting additional information to support the staff's Initial Recommendations Report on the proposed CMPD amendment. Attached, please find documents responsive to your request. Below you will find a discussion of each issue raised.

Your request asked for the location of the water management project, fill requirements for the plant and dimensions of the proposed water management feature. On October 15, 2008, I provided a presentation to the Director of Planning & Zoning discussing the proposed project (see Attachment 1). Slide 4 shows the proposed location of the water management project. Slide 3 provides the estimated fill requirements for the plant. Slide 5 identifies the planned geographic dimensions of the water management project by section and the approximate yields under various depth scenarios. These scenarios were based on an assumed muck depth of 5 feet.

FPL has conducted preliminary investigations of the site to determine the depth of the 250 mg/L isochlor line. While this information has not been finalized, the following has been observed. The expected vertical slope of the salt intruded area has been confirmed, generally increasing in depth from east to west and to a lesser degree from north to south. Isochlor line depths on the east average 22 feet sloping to 33 feet on the west. Isochlor line depths on the north average 18 feet to 36 feet on the south. For purposes of estimating the potential yield, FPL has assumed that a 10 foot buffer would be required between the isochlor line and the bottom of the water management project. Assuming a linear relationship and limited littoral shelf dimensions (consistent with limiting avian habitat), we estimate approximately 6.6 million cubic yards may be excavated to create the water management project. This represents approximately 62% of the fill required for the Turkey Point 6 & 7 project.

Your email also requested a letter from South Florida Water Management District (SFWMD) or the Army Corps of Engineers (ACOE) regarding the applicability of the project for the Comprehensive Everglades Restoration Program (CERP). At this point in time the CERP project(s) that may benefit from the proposed water management project are not designed and approved. Therefore we believe it is premature to request such a judgement from either entity. However, as you may recall FPL has hosted a multi-agency Compatibility Working Group (CWG) over the past 18 months. The location and potential applicability of the water management project is a direct result of that ongoing collaboration, as documented by the peer reviewed meeting minutes maintained for this group. On August 7, 2008, FPL provided a synopsis of the Compatibility Working Group activities regarding this topic (See Attachment 2). In the CWG meetings Miami-Dade DERM, SFWMD and ACOE participated with FPL and other agencies to review candidate locations for fill. The process resulted in the identification of the area described in the CDMP Amendment. The documented benefits of this location indicate that it is outside (therefore not in conflict with), but adjacent to the BBCW project footprint and offers the potential to support future CERP projects. All attendees had the opportunity to review and comment on the meeting minutes. We therefore suggest that this information can be relied upon to demonstrate that the applicability of the project to CERP. The final such determination will be demonstrated within the applicable permitting processes of DERM, SFWMD and the ACOE.

February 12, 2009

Please contact the undersigned with any further questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Scroggs", followed by a small "for" written in the same ink.

Steven D. Scroggs
Florida Power & Light Company
Director, Project Development

Proposed CDMP Amendment

Topics

- Water Management Project Features
 - Fill needs and estimated yield(s)
 - Design Alternatives
- CDMP Amendment Application
 - Proposed Amendment Text
 - Supporting Information in Application

Fill Needs

• Plant Site (net)	8.0 MM cyds
• Laydown Areas	0.6 MM cyds
• Water Treatment	x.x MM cyds
• <u>Access Roads</u>	<u>0.4 MM cyds</u>
Total Required	>9.0 MM cyds

Total Area = 298 acres; less 50ft setback = 257 acres
Useable areas: A = 209 acres, B = 5 acres, C = 43 acres

Excavated Fill Sources

- Plant Site Sources
 - Reservoir Excavation 0.4 MM cyds
 - Nuclear Block Excavation 0.2 MM cyds
- Water Management Project Source

Yield (MM cyds) vs. Excavation Depth (ft below grade)

Area (acres)	10 ft ⁽¹⁾	15ft	20 ft	25 ft
A (209)	1.7	3.4	5.0	6.7
B (5)	0.04	0.08	0.12	0.16
C (43)	0.35	0.7	1.05	1.4
Total	2.0	4.1	6.2	8.3

(1) Assumes 5 ft of muck below grade

Design Considerations

- Water Source (Surface/Reclaimed)
- Technical Features
 - Lined vs. Unlined
 - Impoundment vs. At Grade
 - Control and distribution features
- Environmental features
 - Configuration (Shape, Setbacks, Slopes)
 - Littoral shelf size and shape
- Avian species

Example Projects

- Maximize water management functionality
 - Unlined at-grade reservoir to handle reclaimed water
 - Lined reservoir to manage excess surface water
 - Small littoral shelf and limited vegetation
- Maximize environmental functionality
 - Lined impoundment
 - Large littoral shelf
 - Enhanced native vegetation

Draft CDMP Amendment

- See Draft Application Handout