



Everglades Coalition

July 26, 2019

Megan Clouser
Senior Project Manager
U.S. Army Corps of Engineers
9900 SW 107th Avenue, Suite 203
Miami, FL 33176

Re: Opposition to 404 Wetland Degradation Permit Application for 836
Extension Permit Application No. SAJ-2018-01778 (SP-MLC)

Dear Ms. Clouser:

The Everglades Coalition - comprised of 62 organizations committed to the health and protection of America's Everglades - opposes the proposed 404 Wetlands Degradation permit sought by the Miami Dade Expressway Authority (MDX) for the purpose of developing a six-lane toll road extending State Road (SR) 836 through jurisdictional wetlands within the Comprehensive Everglades Restoration Plan's (CERP) footprint. We ask that this permit be denied, and that MDX consider other existing hybrid alternatives that do not bisect the Bird Drive Basin and instead take advantage of existing infrastructure. The detrimental impacts to the CERP footprint are unnecessary and avoidable.

CERP was authorized by Congress to "restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection."¹ While we recognize CERP is not static and uses adaptive management to evolve, we also recognize that preserving the east coast buffer within the ecosystem will likely be more important than ever to improve water quality and eliminate harmful discharges to the east and west as we seek to increase the ability to send more water south to this very transmissive area for aquifer recharge. The proposed project has damaging impacts to CERP. Most notably, the project involves construction of a permanent fixture in a very low-lying area, which will require additional flood and groundwater protection measures. Further, the project's induced development will drive up the cost of land needed for acquisition, potentially eliminating willing sellers. These impacts undermine the goals and benefits of CERP and set a negative precedent.

¹ Comprehensive Everglades Restoration Plan (CERP), National Park Service, <https://www.nps.gov/ever/learn/nature/cerp.htm>.

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1000 Friends of Florida
Arthur R. Marshall Foundation
Audubon Florida
Audubon of Southwest Florida
Audubon of the Western Everglades
Audubon Society of the Everglades
Backcountry Fly Fishers of Naples
Calusa Waterkeeper
Cape Coral Friends of Wildlife
Center for Biological Diversity
Conservancy of Southwest Florida
Defenders of Wildlife
"Ding" Darling Wildlife Society
Earthjustice
Environment Florida
Everglades Foundation
Everglades Law Center
Everglades Trust
Florida Bay Forever
Florida Conservation Voters Education Fund
Florida Defenders of the Environment
Florida Keys Environmental Fund
Florida Native Plant Society
Florida Oceanographic Society
Friends of the Arthur R. Marshall
Loxahatchee National Wildlife Refuge
Friends of the Everglades
Hendry-Glades Audubon Society
International Dark-Sky Association,
FL Chapter
Izaak Walton League of America
Izaak Walton League Florida Division
Izaak Walton League Florida Keys Chapter
Izaak Walton League Mangrove Chapter
Lake Worth Waterkeeper
Last Stand
League of Women Voters of Florida
Martin County Conservation Alliance
Miami Pine Rocklands Coalition
Miami Waterkeeper
National Audubon Society
National Parks Conservation Association
National Wildlife Refuge Association
Natural Resources Defense Council
North Carolina Outward Bound School
Ocean Research & Conservation Association
Peace River Audubon Society
Reef Relief
Sanibel-Captiva Conservation Foundation
Sierra Club
Sierra Club Florida Chapter
Sierra Club Broward Group
Sierra Club Calusa Group
Sierra Club Central Florida Group
Sierra Club Loxahatchee Group
Sierra Club Miami Group
Snook and Gamefish Foundation
South Florida Audubon Society
Southern Alliance for Clean Energy
The Florida Wildlife Federation
The Institute for Regional Conservation
The National Wildlife Federation
The Urban Environment League of
Greater Miami
Theodore Roosevelt Conservation
Partnership
Tropical Audubon Society

MDX's current proposal poses a particular threat to the Bird Drive Recharge Area (BDRA) project within CERP. The goals of this project include reducing seepage from Everglades National Park to improve the hydrology of the park's ecosystem, recharge groundwater east of Krome Avenue to improve Miami-Dade County water supply, improve the spatial extent of wetlands, and improve water supply to the South Dade Conveyance System.² A fully-developed plan for the Bird Drive Basin (BDB) has not yet been identified. Until critical project components have been fully modeled and defined, a project like this six-lane tollway cutting through the project footprint is premature and threatens critical federal initiatives to protect and restore Everglades National Park.

The Everglades Coalition has opposed the expansion of the SR 836 into the sensitive and CERP-critical wetlands west of the Miami-Dade County Urban Development Boundary (UDB) since 2013. The Everglades Coalition passed a resolution in opposition to the project in May 2013, sent a letter to MDX stating our opposition to the current iteration of their plans in April 2015³, and sent a letter to the South Florida Water Management District (SFWMD) detailing the impacts this project would have on CERP and the broader Everglades ecosystem in July 2018.⁴ The negative impacts of this project on CERP necessitate the denial of the applicant's permit request.

Impacts to CERP Bird Drive Recharge Area

The physical presence of a major roadway would undermine CERP viability within the BRDA footprint because a central aspect of the project involves developing the ability to store surface water up to four feet, allowing for aquifer recharge. We are also concerned with how increased light pollution and noise in close proximity to Everglades National Park will not be compatible with wildlife and endangered species that use this area for foraging and nesting such as snail kites, panthers, bonneted bats, and woodstorks.

The BDRA is linked to both upstream CERP projects and the downstream South Dade Conveyance System (SDCS). The BDRA can provide water storage year-round and release water to the SDCS throughout the dry season. Modeling performed by Dr. Thomas Van Lent of the Everglades Foundation demonstrates that the successful implementation of the BDRA project is critical to prevent dry season water shortages in South Dade and to maintain a freshwater head that helps fight against saltwater intrusion at coastal structures.⁵ With the full seepage barrier implementation, this recharge may be more important to this region than previously modeled, as the CERP model run only modeled for a seepage barrier that was partially engaged.

At their July 11, 2019 meeting, the South Florida Water Management District (SFWMD) Governing Board discussed the importance of BDRA project's north-south connectivity as a part of overall efforts to restore this critical area of the ecosystem. Specifically, the east coast buffer provided by the project and spatial extent of wetlands were discussed as critical CERP components needed to send clean water south. While the BDRA project was delayed for a restudy purpose in

² https://www.sfwmd.gov/sites/default/files/documents/bdrupdate_eb_12_14_11.pdf

³ EVCO Ltr RE: 836/Dolphin Expressway Southwest Extension (Project 83618), 4/3/2015.

https://docs.wixstatic.com/ugd/599879_33911d71b9344705b62b72ed3730f649.pdf

⁴ EVCO Ltr RE: Re: Kendall Parkway Comprehensive Plan Amendment, State Application Review, 7/31/2018,

https://docs.wixstatic.com/ugd/599879_fc6383a4af6c4817b2297aa1a083e666.pdf

⁵ Analysis of the Potential for the State Road 836 Expansion to Affect the Comprehensive Everglades Restoration Plan, Thomas Van Lent, 6/18/2019

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2008 and currently lacks a specific timeframe for construction and engineering, it is still on track for implementation.⁶ The restudy called for a change of course and a “conveyance concept” project was presented to concentrate land acquisition on the western part of Bird Drive Basin, which was approved by the SFWMD in resolution No. 2012-511:

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT ACCEPTING THE FORMULATION FINDINGS AND RECOMMENDATION OF THE LEADERSHIP OF THE U.S. ARMY CORPS OF ENGINEERS JACKSONVILLE DISTRICT AND THE STAFF OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT REGARDING THE BIRD DRIVE RECHARGE AREA PLAN; ACKNOWLEDGING THAT DISTRICT STAFF WILL COORDINATE WITH THE DEPARTMENT OF INTERIOR TO RECONCILE OBLIGATIONS UNDER LAND AND WATER CONSERVATION FUND GRANTS WITH RESPECT TO CERTAIN PARCELS WITHIN THE BIRD DRIVE BASIN AND SOLICIT IDEAS FOR POSSIBLE INTEGRATION OF DISTRICT OWNED LANDS INTO OTHER REGIONAL PROJECTS; DIRECTING DISTRICT STAFF TO COORDINATE WITH OTHER STAKEHOLDERS TO SOLICIT IDEAS FOR OTHER PROJECTS WITHIN THE REGION; PROVIDING AN EFFECTIVE DATE.

To our knowledge, no further action, including meeting all the benefits described in CERP or satisfying the above highlighted language above has been completed by the SFWMD. The development of this multi-lane highway would constitute a permanent decision that directly impacts up to 500 acres of wetlands and will only worsen our ability to expand the spatial extent of wetlands within the east coast buffer area. Many of these lands are encumbered by federal grant obligations for conservation and there is no mitigation elsewhere that would deliver the same benefits.

Impacts to other CERP components and Everglades Projects

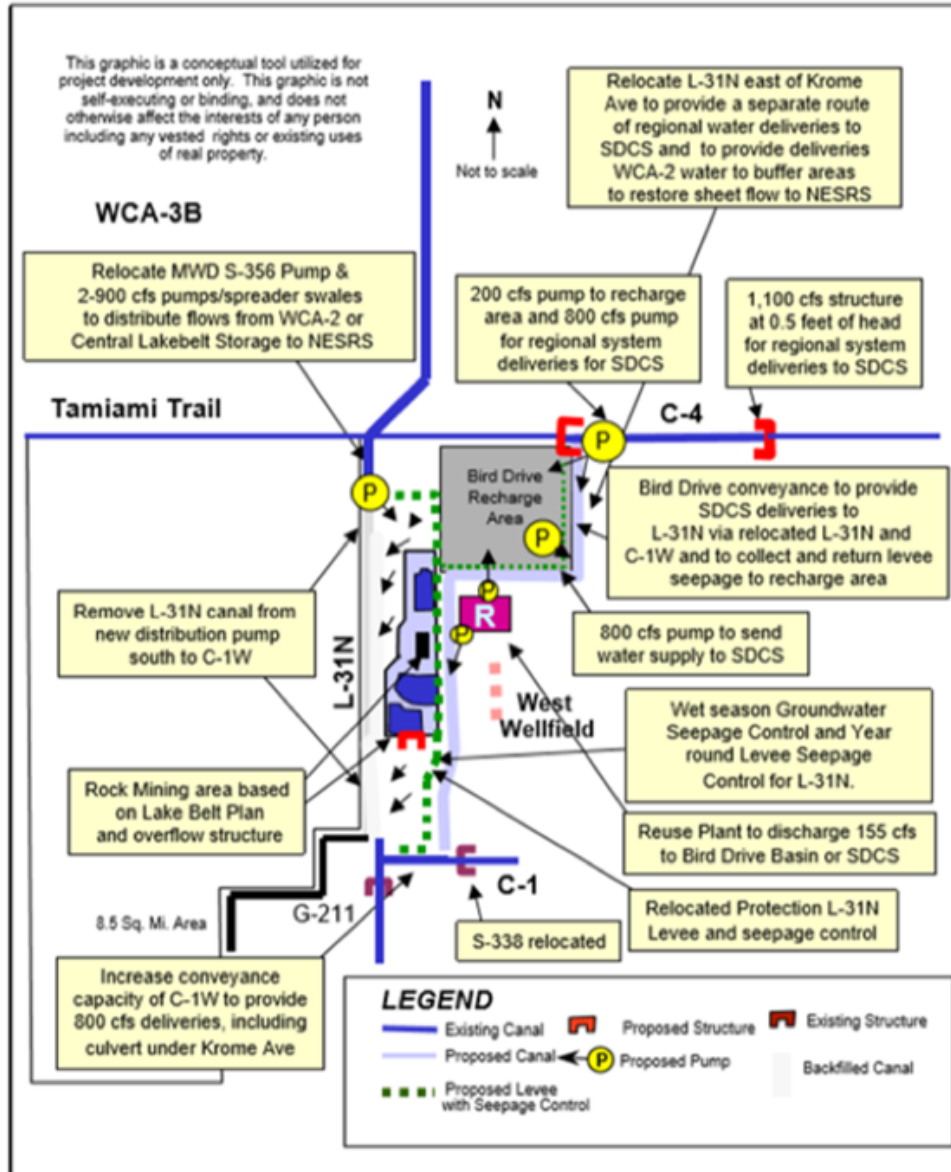
This project would also impact the following CERP components as listed in the Yellow Book⁷: V (L-31N Improvements for Seepage Management), FF (S-356 Structures), BB (Dade/Broward Levee/ Pennsuco Wetlands), S/EE (Central Lake Belt Storage Area), XX (North Lake Belt Storage Area), YY and ZZ. Component V involves the extension of the L-31 N canal along an altered course. The road would intercept the east west running portion of the L-31 N canal and either preclude its use or minimize its effectiveness. All of the other project components previously mentioned either rely in whole or in part on the successful implementation of component V.⁸

⁶ SFWMD, Bird Drive Basin-Background and Current Status. April 30, 2012.

⁷ "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement (PEIS) for the Central and Southern Florida Project, Comprehensive Review Study" (Yellow Book), April 1999

⁸ Potential Hydrological Effects of the Proposed 836 Extension on Everglades Restoration (CERP) and the Miami-Dade Consumptive Use Permit (CUP) for the M-D West Wellfield, Christopher McVoy, Ph.D. June 19, 2019

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Taken from: "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement (PEIS) for the Central and Southern Florida Project, Comprehensive Review Study" (Yellow Book), April 1999, Appendix A4, Alternative D13R, Bird Drive Basin and L-31N Seepage Management, Component Map 7 (pg. A4-59)

The proposed road would also impose on the Pennsuco wetlands north of Tamiami Trail. The Pennsuco wetlands and the BDRA are important components of the East Coast Buffer. The wetlands of the East Coast Buffer provide a boundary between the wetlands of Everglades National Park and the urban core of Miami-Dade and Broward Counties. This buffer is critical to seepage management, groundwater recharge, and wetland protection.

The SFWMD has acquired land in the Pennsuco wetlands area using a myriad of state and federal funding sources, in addition to funding from developers seeking off-site mitigation. On October 25, 2017, the District acquired an additional 1,100 acres within the Pennsuco wetlands via Lake Belt Mitigation funds, bringing approximately 86% of the 12,732 acre Pennsuco wetlands into public ownership.

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Alternatives

Under 40 C.F.R. § 230.12(a)(3)(i-iv), 404 permits may not be issued if: (i) there is a practicable alternative which would have less adverse impact and does not have other significant adverse environmental consequences, (ii) the discharge will result in significant degradation, (iii) the discharge does not include all appropriate and practicable measures to minimize potential harm, or (iv) there is insufficient information to make a reasonable judgment as to whether the proposed discharge will comply with the Corp's Guidelines for permit issuance.⁹

Practical alternatives exist to this project, and the applicant has not adequately studied or reported these alternatives. The only alternatives explored by MDX were a limited number of alternative road corridors – twelve out of thirteen of which bisect the BDRA. The applicant has failed to sufficiently explore hybrid alternatives which use existing infrastructure in combination with improvements and transit. Only one alternative inside the UDB was evaluated and it was determined as being the most effective way to solve traffic congestion. However, MDX deemed it infeasible because of cost and displacement of existing infrastructure. MDX failed to review real public transit alternatives that would effectively service the existing built environment but has instead chosen an alternative that would incite urban sprawl next to a critical CERP project footprint. We feel that is because the applicant (MDX)'s primary focus is on building expressways and it relies on collecting toll revenues. Therefore, MDX did not adequately vet all transportation alternatives to solve the stated traffic problem. The only viable option is the no action alternative because it (1) does not interfere with a federally-funded project (CERP), (2) is not contrary to USACE guidelines, and (3) forces mass transit to become a priority in Miami-Dade County.

No Action Alternative

In a white paper written on behalf of the Transit Alliance Miami, Walter Kulash, a transit and development expert, concludes that **there is no demonstrated need for the SR 836 expansion**. According to The Corridor Evaluation Traffic Technical Memorandum prepared on behalf of MDX, of 112 segments of major arterial and collector streets examined in the traffic study area, only thirteen failed to meet Miami Dade County CDMP multi-mode level of service standards with a volume to capacity ratio of less than 1.20 in either the AM or PM periods. Overall, the Traffic Technical Memorandum failed to show a sufficient current or future need that justifies MDX's proposal for a new multi-lane toll highway.

MDX proposed highway project does not provide the right solution to traffic needs. Studies show that expanding highways creates more traffic over time, not less.^{10,11,12,13} The Kulash report estimates that ten years after the 836 extension opens, the daily vehicle count of induced traffic

⁹ 40 C.F.R. § 230.12(a)(3)(i-iv).

¹⁰ Goodwin, Phil. Empirical evidence on induced traffic. Transportation. February 1996, Volume 23, Issue 1, pp 35–54

¹¹ Milam et al., 'Closing the Induced Vehicle Travel Gap Between Research and Practice', Transportation Research Record: Journal of the Transportation Research Board, 2017, DOI 10.3141/2653-02

¹² Litman. Generated Traffic and Induced Travel Implications for Transport Planning. Victoria Transport Policy Institute, 2017

¹³ Schwager, Diane. 'Consequences of the Development of the Interstate Highway System for Transit'. Transit Cooperative Research Program Sponsored by the Federal Transit Administration RESEARCH RESULTS DIGEST. August 1997. http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rrd_21.pdf

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will be four times greater than the reduction in traffic on the arterial streets that the extension was designed to alleviate. In other words, the induced traffic would be far greater than the intended traffic reduction.¹⁴ As such, a ‘No Action’ alternative remains the best alternative not only for the health of the Everglades, but also for traffic conditions and congestion reduction on Miami-Dade County’s roadways.

Transit Alternative

The Kulash report goes on to describe a plan for solving the traffic issues alluded to via major transit improvements along SW 137th Avenue, between SW 136th Street and NW 12th Street. This transit extension would constitute a reasonable extension of Miami Dade County’s Strategic Miami Area Rapid Transit (SMART) plan. This plan would result in far greater reduction in vehicle miles traveled and improve traffic services in the area in question far more effectively than the road extension.¹⁵

In spite of the viability of this alternative – which achieves county traffic goals while protecting the federal investment in CERP – this alternative has not been fully vetted by the applicant. We believe it is premature to grant a 404 wetland fill permit on this project before other reasonable alternatives have been thoroughly considered.

Road Alternatives

The Miccosukee Tribe of Indians has consistently indicated that the proposed roadway would have a detrimental impact on adjacent tribal resources. As such, the Tribe has promoted a road expansion alternative that would not impact tribal land or resources and that may have lesser impacts on the Everglades system and ongoing Everglades restoration projects. This alternative would involve linking the SR-836 to the recently widened Krome Avenue via an elevated highway, which makes use of existing infrastructure. This alternative would facilitate vehicle traffic while minimizing wetland degradation and negative impacts to the BDRA.

Insufficiency of the interlocal agreement

Much of the supposed protections that MDX has offered for wetland resources are derived from an interlocal agreement, not actual Comprehensive Development Master Plan (CDMP) amendments. An interlocal agreement is a wholly inappropriate tool to use in order to ensure that obligations for ensuring there are no conflicts with CERP projects. At a minimum, these protections would need to be ensured within the four corners of the CDMP in order to be considered legitimate and enforceable. A simple majority of the Miami-Dade County Commission can change the details of the interlocal agreement very easily whereas a CDMP change would require a supermajority from the Commission.

¹⁴ Selected Traffic and Transit Issues SR 836 Extension Dade County, Florida, Walter Kulash, Miami Transit Alliance, 12/24/2018

¹⁵ Ibid.

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Conclusion

The United States of America and the State of Florida have invested hundreds of millions of dollars to protect and restore Everglades National Park through implementation of CERP. Indeed, the U.S. Army Corps of Engineers is a close restoration partner facilitating the planning, construction, and operations of key restoration projects. The proposed SR 836 as offered by MDX represents a significant threat to the viability of CERP components that are essential to supplying clean water to the Everglades and protecting Miami-Dade County's water supply. The member organizations of the Everglades Coalition strongly urge you to deny this permit application on the virtue of its negative impacts on CERP – especially given that there are a number of viable alternatives that have not been fully vetted by the applicant which would eliminate the significant detrimental impacts of the current proposal.

Sincerely,



Mark Perry
Co-Chair



Marisa Carrozzo
Co-Chair

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