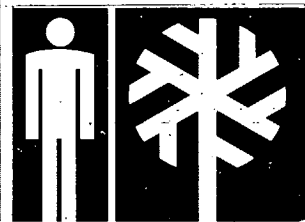


general management plan
final environmental impact statement
volume 2: comments and responses
on the draft environmental impact statement

FES 91-26
Vol. 2 of 2

BIG CYPRESS



NATIONAL PRESERVE • FLORIDA

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UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

GENERAL MANAGEMENT PLAN
and
FINAL ENVIRONMENTAL IMPACT STATEMENT
Volume 2: Comments and Responses

BIG CYPRESS NATIONAL PRESERVE
Collier, Monroe, and Dade Counties, Florida

The proposed action and three alternatives for the general management of Big Cypress National Preserve are presented in volume 1 of this document, and the environmental consequences of their implementation are analyzed. Under the proposed action the National Park Service envisions the preserve as a nationally significant ecological resource – a primitive area where ecological processes are restored and maintained and where cultural sites are protected from unlawful disturbance. Visitors would have the opportunity to appreciate and learn about the preserve's resources in a natural setting. The proposed action would establish a 43- to 49-day general gun season divided into three quota hunts and one non-quota hunt. Only bow hunting would be permitted in the Deep Lake unit. No dogs would be permitted in the Deep Lake and Loop units, and only bird dogs and retrievers would be permitted in the rest of the preserve. Off-road vehicle (ORV) use would be allowed with certain restrictions in all units except Loop and Deep Lake. The interpretive program would be expanded, and recreational opportunities would be developed for canoeing, hiking, camping, and picnicking. Two canals would be rehabilitated to restore more natural surface water flows. Oil and gas exploration and development would be permitted to influence no more than 10 percent of the preserve at any one time. Eleven important resource areas would be protected, including superior natural resource areas, areas essential for maintaining water flow and quality, habitat necessary for the survival of threatened or endangered plant or animal species, and native American cultural sites or important historic or archeological resources. Wildlife programs would be expanded to protect species listed by the federal and state governments, and to improve habitat for white-tailed deer. Feral hogs would be managed so long as they are considered as important prey for the Florida panther. Exotic plants and animals would be selectively controlled. All sites on or eligible for listing on the National Register of Historic Places would be protected, as would significant native American sites. Miccosukee and Seminole Indians would continue their usual and customary use and occupancy of federal lands within the preserve, subject to reasonable regulations to be developed with the assistance of these groups and other interested parties. With respect to environmental consequences, the proposed action would restore more natural surface water flows to approximately 38,000 acres, would ensure the protection of important resource areas, and would improve the habitat of the Florida panther. The number of hunters and total ORV recreational users would probably decrease. More interpretive and recreational opportunities would be provided for the general public. Proposed actions could inconvenience private property owners. Oil and gas owners, lessees, and operators could be affected if their proposed oil and gas activities would influence more than 10 percent of the preserve, potentially delaying additional development. The other alternatives include continuing management policies as of 1985-86 (status quo alternative), providing regional recreational opportunities (alternative A), and emphasizing the preservation of both natural and cultural resources and allowing limited recreational opportunities (alternative B). The status quo alternative would provide the least protection of important resource areas, would have no effect on existing hunting and ORV use patterns, would provide few interpretive and recreational opportunities for general visitors, and would result in no additional constraints on oil and gas owners, lessees, or operators. Alternative A would provide moderate protection of important resource areas; hunters and ORV users would be subject to moderate restrictions compared to recent management; and general visitors would be offered more recreational and interpretive opportunities. Actions could inconvenience private property owners. Oil and gas interests under alternative A could be affected by limiting the influence of exploratory and development activities to no more than 10 percent of the preserve. Alternative B would provide the greatest level of protection for important resource areas, a potential decrease in hunting by up to 75 percent, a decrease in ORV trails and use of ORVs for hunting, a limited increase in interpretive and recreational opportunities for general visitors, inconvenience to private property owners, and severe restrictions on oil and gas interests because of lack of access to most oil and gas resources. Comments on the *Draft General Management Plan / Draft Environmental Impact Statement*, and National Park Service responses, are printed in volume 2.

For further information about this document, contact

Regional Director
Southeast Regional Office
75 Spring Street, SW
Atlanta, GA 30303

or

Superintendent
Big Cypress National Preserve
SR Box 110
Ochopee, FL 33943
(813) 695-2000



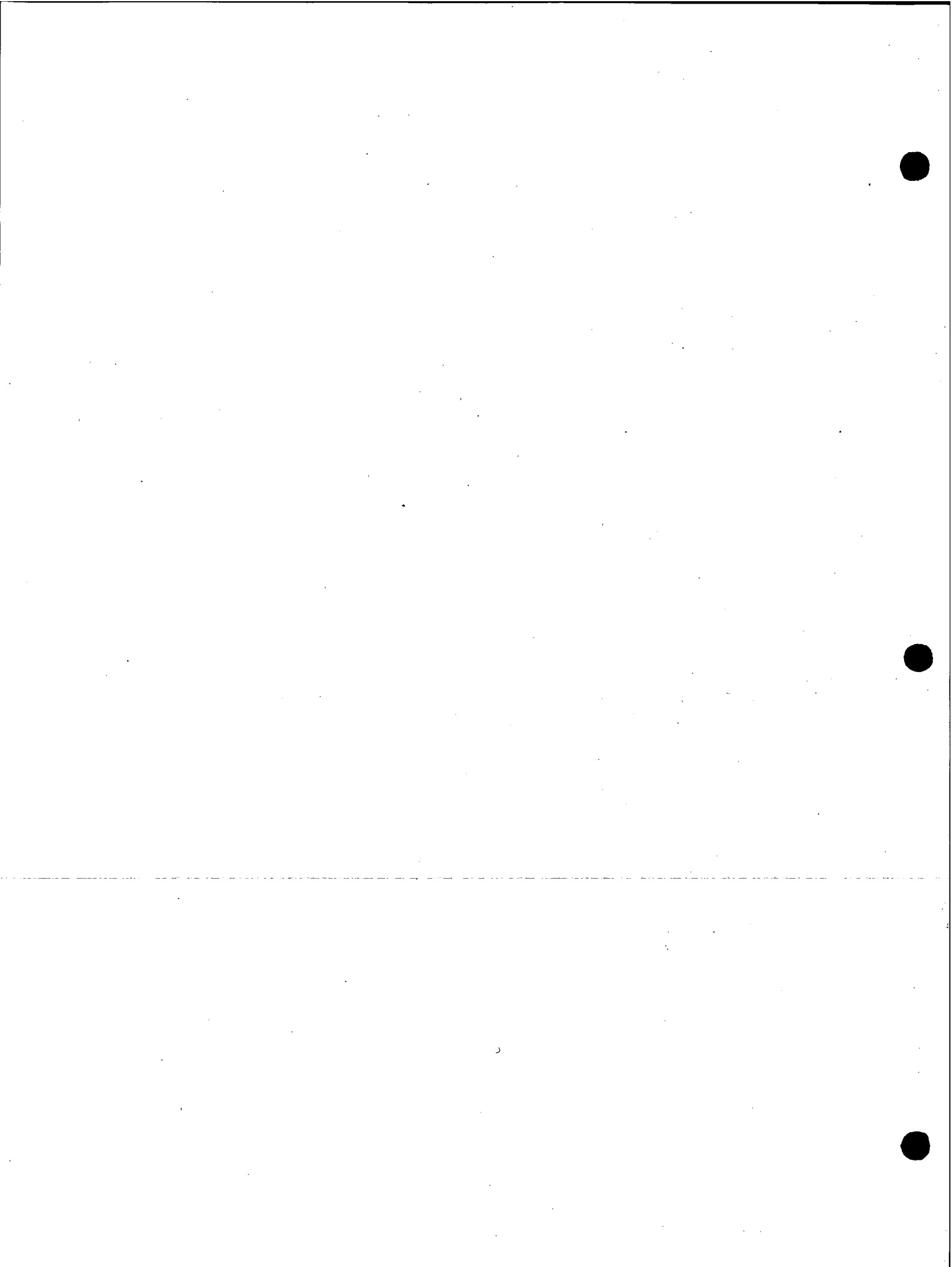
SUMMARY

The *Draft General Management Plan / Draft Environmental Impact Statement* was available for public review from August 8, 1989, to March 1, 1990. Approximately 650 copies of the document were distributed to state and federal officials, the Miccosukee and Seminole tribes, interested agencies and organizations, and regional public libraries.

Responses were received from three federal agencies, the Miccosukee and Seminole tribes, five state agencies, one regional council, one local agency, 25 organizations, and six mineral interests. Letters and cards were received from 91 individuals, plus approximately 3,000 form letters and a petition with approximately 1,000 signatures. Comments from agencies, tribes, organizations, and mineral interests are reprinted in this volume, along with the National Park Service's responses. Responses are only provided to comments questioning supporting information or environmental analysis, comments recommending actions beyond the range of alternatives in the draft plan, or comments requesting clarification of the draft. No response is given to comments simply expressing preference for the proposed action or any of the alternative actions.

Letters from the 91 individuals tended to either support the proposed action, alternative B, or more restrictive actions, with less support for the status quo or alternative A. Most of the letters from individuals stated a preference for actions within the range of alternatives considered in the draft plan. Letters from four individuals—Fred Dayhoff, George Fogg, Jan Jacobson, and Earl Rich—contained information or ideas not directly addressed in the draft plan, and those letters are reprinted below with the NPS responses.

The 3,000 form letters received were in support of the status quo alternative for hunting and ORV use. An example of the form letter and the NPS response is included with the comments of the Blue Ribbon Coalition. The petition with approximately 1,000 signatures requested that trespass properties be allowed to remain in the preserve, a legal issue not addressed by the plan.



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365

FEB 22 1990

Mr. Robert M. Baker
Regional Director
Southeast Region
U.S. Department of the Interior
National Park Service
75 Spring Street, S.W.
Atlanta, GA 30303

SUBJECT: Draft General Management Plan/Draft Environmental Impact Statement/Big Cypress National Preserve.
EPA Log No.: D-NPS-E61066-FL

Pursuant to EPA's responsibilities under NEPA and Section 309 of Clean Air Act, we have reviewed the subject document which presents a plan for the Big Cypress National Preserve for the next 10 to 15 years. The document is well written, comprehensive, and addresses most of the environmental considerations related to the management of the preserve.

We strongly support the National Park Service (NPS) in their approach to management issues and objectives as described in the Draft General Management Plan/Draft Environmental Impact Statement (Draft EIS). The provisions for hunting provide for diverse hunting opportunities at levels compatible with the purposes of the preserve. The off-road vehicle (ORV) strategies are consistent with the historical use of ORVs in the preserve and at the same time provide optimum resource management. The minerals management strategies permit access for geophysical exploration, exploratory drilling, and production of oil and gas resources without significantly compromising air and water quality in the preserve. The oil production operations we observed in the preserve in January, 1990, were some of the cleanest we have witnessed. Exxon and NPS are to be commended for their exemplary performance in this operation.

The following are recommendations that should be addressed in the Final Plan and Final EIS.

Fire Management

The use of prescribed burning is an excellent method for reducing fuel accumulation and returning nutrients to the soil. We are, however, concerned that slow-moving hot fires may burn off accumulated peat found in hardwood hammocks. These hammocks provide refuge for numerous plant and animal species including tree snails and orchids. Lignus tree snails are especially at risk from fire during the egg-laying and juvenile stages. We recommend fire suppression in hardwood hammocks from approximately June through October, when the eggs and young snails are most vulnerable to fire.

RESPONSES

1. Under the proposed action hardwood hammocks would be protected from all fires to the extent feasible. The June - October period cited occurs during the rainy season, when fire threats to hammocks are minimal.

2. Specific methods for controlling exotic plants will be developed in more detail in subsequent action plans based on the final general management plan. Zones of control may be included in such a program, as well as provisions for some level of public participation. Coordination among other agencies in south Florida is ongoing and is cited in the plan.

3. Based on consultation with the state and the U.S. Fish and Wildlife Service and on NPS research, there are no historical or recent records of wood stork breeding areas within the preserve, even though wood storks commonly feed within the preserve. It is the intent of the plan to restore natural hydrological regimes throughout the preserve, but this is not expected to affect wood stork breeding. The U.S. Fish and Wildlife Service has reviewed a biological assessment of the final plan and has agreed in their biological opinion that wood storks would not be affected.

4. The types of water control structures would be considered in future engineering and facility redesign. The intent of providing any drainage structure (bridges, culverts, or control structures) is to return more natural flows to an affected area.

5. Even though alternative B would offer somewhat additional protection for the panther, the proposed action would also protect the panther, while providing a more adequate level for visitors to enjoy preserve resources. The U.S. Fish and Wildlife Service has reviewed the revised plan through formal consultation under section 7 of the Endangered Species Act and has concluded that the proposed action would not jeopardize the continued existence of the Florida panther.

Mr. Robert M. Baker
Page 2

If NPS is using paid contractors to manage prescribed burning, Miccosukee and Seminole Tribe members might be employed to the extent that their interest and fire management skills will allow.

Exotic Plant Species

The NPS triage approach to managing the three major invading tree species *Melaleuca* (eucalyptus), Brazilian pepper (its established), Australian pine (control as resource permit), accurately reflects the reality of these species presence in south Florida. The use of properly administered herbicides is a realistic means of controlling *Melaleuca*. In addition, NPS might consider initiating programs to encourage OGV users to assist in *Melaleuca* control whereby OGV users would be given credit toward a tree or reduced vehicle annual permit in exchange for reasonable number of *Melaleuca* whole tree and root systems.

The NPS exotic plant control program should identify a long-term eradication strategy that identifies priority areas within the preserve. Zones of control should be identified, along with the optimum control methods (fire, herbicides, manual removal, and flooding) to be applied at each zone. Exotic plant control should commence when the pest species are most stressed from seasonal drought or inundation. Exotic plant control should be coordinated with similar State and county programs in order to focus resources on this difficult problem.

Hydrology

We are concerned that the draft EIS does not address the specific hydrologic needs of the wood stork. Complex factors, including water levels and food availability, are co-dependents in regulating the breeding cycles of this endangered species. Wood storks are on the decline due to habitat loss and improvident water management. The breeding cycle of the wood stork is carefully synchronized with the cycle of the wetlands to ensure that the maximum food supply occurs when the young are being raised. NPS should consider actions that will restore a more natural hydroperiod to wood stork breeding areas. Lack of water resources management can doom this endangered species if water level fluctuations are not restored to the benefit of the wood stork.

In order for NPS to have better control the flow of water resources, installation of water level control structures with flashboards, rather than culverts, is recommended.

Panther Protection

The proposed plan should incorporate measures described in Alternative B that go further to protect the endangered panthers.

Mr. Robert M. Baker
Page 3

These measures include: 1) prohibit hunting of white-tailed deer, bope, and other prey species in Bear Island, Deep Lake, and Corn Dance Units; 2) extend the prohibition of OHV use to Bear Island and Corn Dance Units; and 3) limit oil and gas development in Bear Island, Corn Dance (outside the Sumland Tract), and Deep Lake Units.

Oil and Gas Exploration/Production

We strongly support the position that no more than ten percent of the preserve be influenced at one time by oil and gas activities. The area of influence should be at least 0.5 miles on either side if the activity and should apply to existing roads, well pads, and all new seismic activities. Any area of direct impact that is properly reclaimed could be deleted from the cumulative total of the area of influence. When the total area of influence related to unclaimed operation sites and active operation sites reaches the ten percent limit (57,444 acres), no additional operations should be permitted.

Other recommendations include: A "one pass" policy should be applied restricting back and forth vehicular traffic along seismic lines. Only low-impact vehicles (wide pneumatic tires, no tracked vehicles) should be used. Helicopter activity should be restricted from all bird rookery areas during the nesting season. Performance bonds should be in amounts that reflect site restoration costs, and should be extended to periods of five years or more. Bonding obligations should be released only when the Superintendent determines restoration has been satisfactory. Seismic data should be shared with the State and made available, perhaps on a fee basis, to all oil and gas interests. Sharing of seismic data would reduce unnecessary multiple seismic explorations being conducted over and over on the same ground, as is the current practice today.

Wetlands

Continued wetland losses from new and ongoing activities are of concern to EPA. Wetland impacts should be avoided and/or minimized for all development including oil and gas exploration/production. The Agency will be applying a "no net loss" policy for all wetlands impacts. In considering new development, emphasis will be placed on removal of inactive pads, roads, and restoration/enhancement of historical hydrology as a means of offsetting impacts. All new construction should be designed to minimize fill and should maintain natural hydrology.

Air Quality

Emissions from production well flares, well fluids, by-products from propane-fired "heater-treaters", hydrogen sulfide, and nitrogen oxide are all potential emissions from oil activities in the preserve. These can damage vegetation, impair human health, and reduce visibility. We support the designation of an air quality area of influence as being one mile from all oil and gas activity, and

6. With the exception of sharing seismic data, these recommendations are included in the "Minerals Management Plan" (appendix C). For privately owned minerals, seismic data is proprietary, and the federal government cannot require private interests to disclose such data. However, the National Park Service will continue to encourage private mineral interests to share such information in order to minimize resource impacts.

7. Mitigating measures for proposed developments in wetlands include restoring disturbed wetland sites in the preserve at a greater than one-to-one ratio. Consequently, the proposed action would result in a net gain for wetlands. The areas currently proposed for development that would require filling of wetlands are adjacent to roadways and other existing developed areas.

8. To identify any impacts from the emission of pollutants, the "Minerals Management Plan" (appendix C) has been revised to require three vegetation monitoring plots to be established within 0.5 mile of a production site. Monitoring methods must reflect accepted scientific practices for documenting effects related to pollutants on overstory, understory, shrub, and herbaceous components of the vegetation community. See stipulation 21 for drilling and production (appendix C).

9. The National Park Service recognizes the potential impacts to the resources of Big Cypress and Florida resulting from potential global climate change and is participating in related research activities.

Mr. Robert M. Baker
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further recommend that air quality monitoring parameters be established. Emission impacts on vegetation within the area of influence should likewise be documented.

Global Climate Change

In the draft guidance (June 10, 1989) to federal agencies regarding consideration of global climate change in preparation of environmental documents, the Council of Environmental Quality concluded that federal agencies should begin now to evaluate how their actions may contribute to, or be affected by, global climate change. Although the NPS action is unlikely to contribute to global climate change, park activities may be affected by changing rainfall patterns. NPS may wish to consider extremes in water availability in their long term management scenarios.

SUMMARY

EPA has concluded that the proposed management plan and alternatives have been adequately described and rates the Draft EIS EC-1. We appreciate the opportunity to comment on this document. If you have any questions, please call myself or John Hamilton at (404) 347-3776 or FRS 257-3776.

Sincerely,

Heins J. Mueller

Heins J. Mueller, Chief
Environmental Policy Section
Federal Activities Branch

CC: USFWS - Vero Beach Office
FLDER - Division of Environmental Programs
Big Cypress Preserve - Superintendent

COMMENTS

RESPONSES



United States Department of the Interior
FISH AND WILDLIFE SERVICE

75 SPRING STREET, S.W.
ATLANTA, GEORGIA
30303



March 12, 1999

Memorandum

To: Regional Director, National Park Service, Atlanta, GA

From: Regional Director, Fish and Wildlife Service, Atlanta, GA
(AW/ES)

Subject: Response to National Park Service's request for comments
(October 10, 1989) on the Draft General Management Plan and EIS
for the Big Cypress National Preserve

INTRODUCTION

This responds to your request of October 10, 1989, to review the Draft General Management Plan and EIS for the Big Cypress National Preserve.

GENERAL COMMENTS

Overall, the Draft Management Plan and EIS are very well written and cover the issues in a comprehensive fashion. The tables and maps are particularly useful for comparing attributes of the alternatives.

We agree that restoration of flow patterns in Big Cypress should be generally beneficial to fish and wildlife, but that environmental restoration may have to be compromised to accommodate other management objectives. One anomalous intrusion is the presence of the jetport. It would seem to be appropriate to address the manner and degree to which jetport operations affect other uses of Big Cypress. What is the likelihood that aircraft operations will increase in the future? Alternatively, is there any intention to phase out and restore the site? Over what time schedule?

Although the extent of habitat elimination for National Park Service improvements is not large compared to the areas to be enhanced, it is notable that the proposed Alternative and Alternative A require additional filling, while Alternative B actually eliminates 93 acres of fill (Page 291).

ENDANGERED SPECIES ISSUES

According to your October 10, 1989, memorandum and the subject document, there are three endangered species issues that must be addressed: (1) your statement that the current proposal is a continuation of the informal consultation process started in 1985; (2) the conclusion that the draft proposed actions described in the document would not jeopardize any Federally listed or candidate species or Critical Habitat and may beneficially affect the endangered Florida panther; and (3) your request for an update of threatened and endangered species that may be impacted by the proposed plan.

1. There have been recent discussions between Dade County and the Department of the Interior concerning a new long-term jetport agreement. Through negotiations with Dade County, the National Park Service is seeking to mitigate potential impacts resulting from current jetport operations and management. The "Related Issues and Concerns" section of the final GMP/EIS has been modified to indicate that this issue is beyond the scope of the present document.

The following addresses the above issues in order.

1. The current document reflects a preferred alternative called the Proposed Action. In most cases, a proposed action is sufficient to indicate what Federal agency plans to do, and it is at this point that the agencies prepare the biological assessment and the "may affect" determination under Section 7 of the Endangered Species Act. The Draft Management Plan indicates that a biological assessment will be prepared prior to authorization of the Final Management Plan, and this plan will be submitted to the Fish and Wildlife Service (Service) for review. It is our understanding that the National Park Service plans to enter into formal consultation at that time. We anticipate that the final plan will be a "five tiered" of the current proposal and strongly recommend that the National Park Service not wait any longer and complete their Section 7 obligations as described above at this time. Completing Section 7 now will insure that all concerns are addressed prior to selection of a final action plan.
2. Closely associated with the above point is the National Park Service's determination that the proposed action would not jeopardize the continued existence of the Florida panther. Such a determination can only be made by the Service through the Section 7 consultation process. The National Park Service's responsibility under the Endangered Species Act is to determine if there is an effect on any threatened or endangered species; determinations of jeopardy and no jeopardy are reserved for the Service.
3. The Service agrees with the list of species that are presented in the Draft General Management Plan and is not aware of any other listed species that may be affected by the proposed action. To assist you in the preparation of your biological assessment, we would like to provide you with some concerns about the Florida panther. The Service is greatly concerned over the status of the Florida panther, and this document does an excellent job of identifying direct and cumulative impacts to this species from the various management scenarios. The focus of concern expressed over the panther appears to be availability of prey (deer and hogs) and the role that disturbance (hunters, off-road vehicles, dogs, etc.) may play in panther behavior. Prey concentrations are related to habitat quality and to mortality. All of the action alternatives would maintain and improve habitat alternatives. The panther is on the "brink of extinction" (Page 265). While Alternative B is most restrictive of the four alternatives as regards development and recreational use, it does not completely curtail hunting. You note that illegal shooting eliminated three panthers between 1981 and 1985 (Page 235). It is not unreasonable to suspect that not all shot panthers were found and counted. Since illegal shooting has been reportable for Florida panther mortality and since illegal shooting is reportable to the number of encounters between panthers and armed individuals (Page 236), you should consider a fifth alternative restricting big game hunting to the minimum level.

2. The National Park Service initiated formal consultation by submitting a biological assessment to the U.S. Fish and Wildlife Service on the final proposed action in October 1990.
3. The U.S. Fish and Wildlife Service responded to the biological assessment in February 1991, concluding that the proposed action would not jeopardize the continued existence of any federally listed species.
4. Public Law 93-440, which established the preserve, and PL 100-301, which expanded the preserve in 1988, clearly intend that recreational hunting continue in the preserve at levels compatible with resource protection and other recreational activities. Based on current resource data, the National Park Service considers alternative B to be the most restrictive alternative that still responds to the congressional intent to allow some level of recreational hunting.

5. allowed under the Big Cypress Preserve's enabling legislation. Is alternative B the most restrictive situation compatible with this mandate, and with the Endangered Species Act? Section 7(a)(1) of the Endangered Species Act requires Federal agencies to promote the welfare of listed species. This places an obligation on the National Park Service to develop a strong program for panther protection.

6. The current proposal allows dogs in the Turner River Unit during the first 3 days of General Gun Season. Panthers are not known to occur in the Turner River Unit at this time, but they have used the area in the past. If they move into the area or panther sign is found, should hunting with dogs be stopped? Consideration should also be given to eliminating hunting with dogs to see if the reduction will increase the deer population, and therefore bring panthers back to the area.

7. Furthermore, should a panther be shot in the Big Cypress Preserve, we recommend that hunting activities be suspended, the hunting program revised, and Section 7 consultation reinstated. In addition, we further recommend two measures to reduce the potential for such incidental shooting: (1) publicize your intention to suspend hunting activities should a panther be taken; and (2) require some level of hunter education and certification for at least big game hunting privileges.

SPECIFIC COMMENTS

8. The following items reference specific points contained in the draft document and are identified by page and paragraph.

9. Table 1 - Map number, not "listings" sheet

10. Reference is made that feral hogs are apparently an important secondary food source for panthers in areas where deer are scarce. Data indicates that in some cases hogs may actually be the primary or even preferred prey item, even in areas containing adequate deer populations.

11. Reference is made that feral hogs and other exotic species will be eliminated or controlled. As indicated above, hogs are documented as an important prey resource. Armadillos are also known to be readily taken under some circumstances. It is quite possible that until efficient hunting skills needed for large prey such as deer are completely developed by dispersing subadult panthers small prey items such as armadillos may make up a significantly important component of food items taken. If raccoons are shown to be a primary source for potential mercury contamination in panthers, the role of armadillos as a near-contaminated food item could become even more important. Therefore, across the board measures to eliminate or control hogs or armadillos should not be proposed at this time. It is recommended that no general control program for these animals be proposed or implemented until definitive data show that they are not important prey items for the panther. In the interim, any control should be limited to measures necessary to respond to specific, isolated crisis situations.

5. Based on more recent resource information, this and other public comments, and extensive negotiations with the Florida Game and Fresh Water Fish Commission, the proposed action has been revised to prohibit the use of dogs for deer, hog, and raccoon hunting in the preserve.

6. Automatic suspension of hunting is not proposed. However, should any unanticipated situation arise that posed a reasonable threat to a listed species, actions would be taken to control the threat and to reinstate section 7 consultation for species protection.

7. The map has been corrected.

8. The document has been clarified to indicate that hogs are taken and that they are part of the prey base for the panther. References to their role as a secondary food source have been modified accordingly.

9. The proposed action recognizes the potential importance of feral hogs and armadillos to the Florida panther and calls for selective, site-specific control of these exotic animals where other resource values are threatened. Efforts to eliminate these exotic species would only be undertaken after it is clear that their reduction would not adversely affect the panther.

10. Following extensive negotiations with the Florida Game and Fresh Water Fish Commission, the proposal for a full-season nontransferable quota hunt has been revised. Limits on hunting activity for each unit would be set annually by the National Park Service in consultation with the commission. Florida state hunting regulations require that hunters check in and out.

11. The proposed action has been revised to accommodate possible relocation of panthers.

12. The proposed action has been revised to accommodate annual prescription burning of as much as 100,000 acres.

13. The wording of the draft has been revised to reflect the potential impact on the panther of eliminating or sizably reducing feral hog populations.

14. The text and graphics have been revised to reflect recent panther movement and known panther activity in the Corn Dance and other units, and references to population centers are no longer used. This change recognizes the fact that panther activity is subject to change over time.

15. The text has been revised.

16. The text has been revised.

17. The text has been revised.

18. See response 3 above.

10	<p>Page 52, SEC. 3 - Reference is made to a nontransferable, full-season quota permit system. Consideration should also be given to incorporating a mandatory "check in/out" system for deer and hog hunters and instituting harvest quotas per Management Unit.</p>
11	<p>Page 59, SEC. 5 (and 2004, 201, 202, 203) - Reference is made to the possible reintroduction of panthers into the Big Cypress Preserve using captive-bred animals. This reintroduction should also be extended to the possible application of "reintroduced" animals for reintroduction purposes.</p>
12	<p>Page 106, Table 7, PRESCRIPTION BURN - Reference is made that the average annual prescribed burn acreage will increase from 9,000 presently to 50,000 under the proposed alternative. One of the objectives identified for the application of prescribed fire is the management of wildlife habitat for game, nongame protected, and rare species (Page 64). Additionally, reference is made that roughly 75 percent of the Big Cypress Preserve consists of intact communities that will require periodic fire for perpetuation (Page 170). Based on this information, the proposed 50,000 acres per year will produce an overall burning cycle of approximately 8 years (5,000 units, likely that a more frequent burning cycle will be needed to provide appropriate habitat conditions for the deer, as well as the perpetuation maintenance of some plant communities).</p>
13	<p>Page 146, Table 16 (and 2006, 205) - Alternative B is stated to eliminate feral hogs, yet this alternative is stated to have the "greatest improvement in number and health of panther population; deer and feral hogs are to have greatest probable increase in populations" (Page 152, same Table). The elimination of hogs and their availability to panthers appear to be in conflict.</p>
14	<p>Page 181, SEC. 2 - Reference is made that the Corn Dance unit represents a population center for the panther. Based on the most recent survey data this is apparently no longer true.</p>
15	<p>Page 185, SEC. 3 - Vegetation changes are not likely to result from "increased salinity." This apparently should read "increased salinity."</p>
16	<p>Page 189, SEC. 4 - Reference is made that the cumulative effect of legal and illegal hunting and of panther predation is unclear. It should also be mentioned that at current levels legal hunting may be adversely affecting the panther through disturbance (Houser, ORG, 08/1, 08/2, etc.).</p>
17	<p>Page 190, SEC. 5 - Reference is made to deer harvest in the various management units for the 1994-95 hunting season. It should be noted that because of many prevailing factors, such as the large number of hunter access points and hunting camps within the Big Cypress Preserve, inconsistencies in the operation of game check stations, limitations in enforcement activities, etc., the accuracy and applicability of harvest data must be subject to question.</p>
18	<p>Page 196, SEC. 7 - Under comments regarding the Endangered Species Act, it is noted that it is the responsibility of the Fish and Wildlife Service through the Section 7 consultation process to conclude whether or not a proposed action jeopardizes the continued existence of a listed species.</p>

COMMENTS

RESPONSES

19

Page 259, final paragraph - It is the Federal action agency's responsibility to consult with the Fish and Wildlife Service. The document should state that oil and gas operators will submit information to the National Park Service to assist them in determining if an action is likely to affect a listed species.

20

Melaleuca and Schinus are Latin names for these plants, and ought to be capitalized and underlined or italicized.

Melaleuca

19. The text has been revised.

20. The scientific names for these plants are in common usage in south Florida and, therefore, are treated here as common names.

COMMENTS

RESPONSES

1. As cited in the "Minerals Management Plan" (appendix C), oil and hazardous materials contingency plans are required in a plan of operations.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Center for Disease Control
Atlanta GA 30333
February 21, 1990

Mr. Rob Baber
Regional Director
Southeast Regional Office
National Park Service
75 Spring Street, SW
Atlanta, Georgia 30303

Dear Mr. Baber:

We have completed our review of the Draft General Management Plan (DGP) and Draft Environmental Impact Statement (DEIS) for the Big Cypress National Preserve, Collier, Monroe, and Dade Counties, Florida. We are responding on behalf of the U.S. Public Health Service.

We concur that the proposed action would better protect the preserve's natural and cultural resources, while providing for more appropriate recreation and regulation of consumptive uses, than would the described alternatives. The more controlled areas of allowable oil and gas exploration (up to 10 percent of the preserve at any one time) should assist in quality control of the activities and in implementing mitigation measures when necessary. Conversely, under the status quo alternative, unlimited oil and gas development could occur and the collective impacts could be of greater concern.

As noted in the DEIS, there is always a concern about water quality issues when any geophysical activity occurs. Therefore, we stress the importance of early detection of spills and leaks, and the rapid implementation of planned mitigation measures to prevent substantial surface and groundwater contamination. To ensure the capability of rapid response, it is essential to have a spill prevention control and counter-measure plan in place, and have appropriate personnel trained to implement the plan. We believe the current plan to establish water monitoring stations (page 360) appropriate and recommend that well pads to test water quality during the drilling phase should be implemented.

Thank you for the opportunity to review and comment on this DGP/DEIS. Please insure that we are on your mailing list for Final EIS and future DEIS's under the National Environmental Policy Act (NEPA).

Sincerely yours,

Kenneth W. Holt, M.S.P.H.
Environmental Health Scientist
Center for Environmental Health
and Injury Control

HOBBS, STRAUS, DEAN & WILDER

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March 1, 1990

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Mr. Bob Baker, Regional Director
Southeast Regional Office
National Park Service
75 Spring Street, S.W.
Atlanta, Georgia 30303

Re: Big Cypress National Preserve: Comments
on the Draft General Management Plan/Draft
Environmental Impact Statement

Dear Mr. Baker:

We write on behalf of our clients, the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida, to provide you with comments on the Draft General Management Plan/Draft Environmental Impact Statement (Draft GMP/EIS) for the Big Cypress National Preserve, which was distributed for public review and comment on August 1, 1989. The public comment period was subsequently extended through March 1, 1990.

Our comments are general in nature, as neither our firm nor our clients have the staff resources available to conduct a detailed technical review of a document such as the Draft GMP/EIS. Thus the positions stated in this letter should not be taken as an unqualified endorsement of the data presented and the methodology used in preparing the Draft GMP/EIS. Rather, our comments are based on the assumption that the methodology is appropriate and the data are valid.

In general, our clients support the proposed action. We particularly approve of the planned effort to restore the natural hydrological system by removing man-made impediments

Mr. Rob Baker
March 1, 1990
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to surface water flows. We believe that the restoration of surface water flows and the resultant lengthening of hydro-periods would be generally beneficial to native vegetation and wildlife and would help to limit the spread of exotic species within the Preserve. Our clients had been living in the Big Cypress area for many generations when the massive disruption of the hydrological system was begun in the early part of this century. Their traditional cultures are based on the natural environment. Their traditional cultures are defined by the hydrological system, which in turn is largely the hydrological system. Thus, the restoration of the hydrological system would serve the interests of our clients.

Our clients also support the plan to develop new concession services. Both Tribes support efforts to increase the number of visitors who come to the Preserve for purposes that do not consume the Preserve's resources or otherwise degrade the natural environment. Both Tribes are interested in helping the general public to understand and appreciate the Preserve, and both Tribes are interested in becoming involved in interpretive programs and concession services.

While our clients are not opposed to the general public being allowed to hunt in the Preserve, the modest restrictions called for in the proposed action appear reasonable to us. In particular, the proposed action appears reasonable to us because it would encourage other non-hunting uses of the Preserve since this would mean that the Preserve would be closed to hunting during more of the peak tourist season in South Florida and, consequently, visitors during this period would not have to be concerned about risks to their personal safety posed by the presence of hunters. We also believe that the proposed restrictions on hunting would be beneficial to the populations of both white-tailed deer and Florida panthers, and both of these species are culturally important to our clients.

Off-road vehicle (ORVs) use has caused a substantial amount of environmental degradation in the Preserve, and the degradation can be expected to get much worse if present trends continue. Thus our clients support the modest restrictions on ORVs in the proposed action.

With regard to minerals management, both Tribes are concerned about potential adverse environmental impacts that are often associated with exploration for oil and gas and the possibility of environmental damage as a result of oil spills. It appears to us that the regulatory approach of the proposed action would provide an adequate level of protection against the possibility of such environmental damage.

Mr. Bob Baker
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We appreciate the fact that the Draft GMP/EIS discusses Indian use and occupancy of the Preserve, including religious properties, without revealing locational information. We also appreciate the statement on page 75 that, under the proposed action, the Park Service would patrol the two Indian ceremonial sites (which are considered eligible for the National Register of Historic Places) and would vigorously prosecute all looters. We hope that Park Service protection of these sites, and prosecution of looters and vandals, will not have to wait until there is a Final EIS and a formal decision to carry out the proposed action or one of the alternatives. Rather, it seems to us that protection of these sites should be an on-going Park Service responsibility. In addition, there may well be other sites within the Preserve that are important to either or both Tribes for cultural and/or religious reasons that would be eligible for listing on the National Register. The planned ethnographic study should identify any such properties. Our clients would want to be directly involved in decisions regarding whether to nominate any such properties to the National Register.

Finally, we take issue with the way in which the Draft GMP/EIS describes the Park Service's efforts regarding consultation with the Tribes in the summer of 1989. Our clients recall that when they were contacted, the only dates that were offered were dates on which they had previous commitments. Although they expressed willingness to meet at some future date, they were not contacted again. Furthermore, we note that the Park Service is obligated to consult with the Tribes in the preparation of an EIS for reasons that go beyond the American Indian Religious Freedom Act, which is the reason given in the Draft GMP/EIS for contacting the Tribes. Specifically, the regulations promulgated by the Council on Environmental Quality implementing the National Environmental Policy Act (NEPA) require that, during the scoping process, federal agencies seek the involvement of Indian tribes that would be affected by proposed federal actions. See 40 CFR 1501.7(a)(1). Given the level of communication that has existed between the Park Service and our clients in the context of the development of regulations governing Indian use and occupancy of the Preserve and the planning of the ethnographic study, we trust that a Park Service perspective on the interests of our clients that is limited to religious freedom issues is a thing of the past.

1. The reference in the "Consultation and Coordination" section has been revised.

COMMENTS

RESPONSES

Mr. Bob Baker
March 1, 1990
Page 4

We appreciate the opportunity to provide comments on the Draft GME/EIS, and we look forward to a cooperative relationship with the Park Service in the conduct of the ethnographic study of Indian use and occupancy of the Preserve.

Sincerely,

HOBBS, STRAUS, DEAN & WILDER

Dean B. Suagee

By: Dean B. Suagee

cc: Mr. Billy Cypress
Jim Shore, Esq.
Mr. Steve Terry

FLORIDA GAME AND FRESH WATER FISH COMMISSION

C. TOM BAINBY, D.V.M., WILLIAM C. BORTICK, JR., DON WRIGHT, THOMAS L. HERR, SR., MRS. GILBERT W. HUMPHREY

Mr. Bob Baker, Regional Director Southeast Regional Office, National Park Service, 75 Spring Street, Southwest Atlanta, GA 30303



FARRIS BRYANT BUILDING 600 South Mandarin Street Tallahassee, Florida 32309-1603 (904) 488-1900

March 1, 1990

Mr. Bob Baker, Regional Director Southeast Regional Office, National Park Service, 75 Spring Street, Southwest Atlanta, GA 30303

Dear Mr. Baker:

A number of our agency personnel have been involved in review of the Draft General Management Plan and Environmental Impact Statement for Big Cypress. Collectively, it is our feeling that the plan is an efficient and accurate reflection of the NPS intent to manage the Preserve according to NPS policies, and an honest effort to comply with the laws which govern the agency's operations. However, it is somewhat less clear to us that the NPS is responding to Congressional mandates found in the Big Cypress National Preserve Act.

Although many of the additional restrictions on hunting and fishing uses within the Preserve are not, in themselves, particularly onerous, the cumulative impact of the entire package of restrictions (including those on ORV use) represent unnecessary and burdensome curtailment of consumptive activities on the Preserve. It was clearly the intent of Congress and the State of Florida to preserve these uses without unnecessary curtailment of them. By our interpretation of the language within the Act, there was recognition of the importance of NPS with the same utilitarian orientation of the states. The unfortunate conflicts our agencies have experienced in recent times appear to revolve around interpretation of the word "consultation" from the Act when it states "except in emergencies, any regulations prescribing restrictions relating to hunting, fishing or trapping shall be put into effect only after consultation with the appropriate state agency having jurisdiction over hunting, fishing and trapping activities."

The Commission is comfortable in its role as executor and regulator with respect to Florida's wild animal, life and freshwater aquatic life, a role assigned to the Commission by Article IV, Section 9 of the Florida Constitution. We are similarly secure in our responsibility to control and

1. The legislation establishing the preserve calls for the protection of natural and cultural resources and provides for certain activities, including recreational hunting, to the extent the resources and ecological integrity of the preserve are not adversely affected. The National Park Service recognizes and supports recreational hunting as an appropriate activity in Big Cypress. It is not the desire or intent of the Park Service to unnecessarily curtail any recreational activity appropriate to the enjoyment of preserve resources. However, use of the preserve must be managed and monitored to ensure the protection of this nationally significant area.

The National Park Service has consulted with, and will continue to consult with, the state of Florida in managing the preserve. However, it must be recognized that the management of the preserve area is subject to other legal requirements in addition to those enumerated in the preserve's enabling legislation. These legal authorities are cited in the "Introduction" to the final GMP/EIS.

2. The National Park Service recognizes the concerns of the Florida Game and Fresh Water Fish Commission and is committed to a continuing partnership with the commission for management and enforcement. In the spirit of partnership the two agencies entered into negotiations before preparation of the final plan. The results of the negotiations are incorporated in the "Hunting" section of the general management plan.

Mr. Bob Baker
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manage state game lands, as we are charged under Chapter 372.121, Florida Statutes. For more than 50 years the Commission has regulated the interactions among human populations and other creatures in the state. We are especially attuned to such interactions dealing with the most popular hunted species and with endangered species.

From the Commission's perspective, NFS does not appear at all in a role as the custodian of state game lands. No believe this is because NFS has traditionally been charged with preserving natural resources under its protection rather than providing for wise consumptive use of them. This latter role has been more traditional for the Commission. It is this distinction between preservation and conservation philosophies which we believe represents the essence of the conflict among our professionals and between our agencies. We see it as inevitable that NFS would attempt to bring the Big Cypress National Preserve in line with the preservation philosophies utilized within the national park system, and we do not judge this to be in error from the NFS perspective. However, we must emphasize that we feel such a result would be outside state and congressional intent for the Big Cypress National Preserve.

The State of Florida participated in the acquisition of Big Cypress with the understanding that consumptive activities would continue without being unnecessarily curtailed. The Act creating the Preserve specified that the Commission be consulted before the Secretary of the Interior imposed any restrictions on hunting, fishing or trapping. Further, the Act limits the Secretary to designation of "some" where and "varied" where no hunting, fishing, trapping or entry may be permitted for reasons of public safety, administration, fire, and faunal protection and management, and public use and enjoyment. Some of the proposed actions found in the draft GMP appear to us to exceed the NFS authority and some recent past actions of NFS (i.e., "proposed" actions implemented prior to approval of the GMP) appear to violate the intent of the Act, as well as the good faith of the relationship set up by the Act. In particular, the implicit recognition of the Commission as the state's authority regarding regulation of the taking of wild animal life.

Below are specific comments regarding proposed actions within the GMP, followed by our recommendations for plan modification:

- A. Hunting: There are many unknowns regarding the dynamic interactions in Big Cypress among hunters, hunted species (especially deer, raccoon and hog), Florida panthers and habitat factors. No one has definitive answers for all the questions that arise in this regard. However, an assertion can be made that when questions have arisen among biologists and other professionals regarding the need for restriction of hunting activities, the Commission has taken a conservative position, in some cases with no supporting data. Specific examples include, but are not limited to:

1. Reduction of quotas during the first nine days of the general gun season.

3. The commission's recommendations were considered during negotiations with the National Park Service and are partially reflected in the final proposed action.

Mr. Bob Baker
Page 3

2. Establishment of a season-long quota for hunters in Bear Island Unit.
3. Implementation of a five-inch antler, bucks-only rule.
4. Elimination of all-terrain cycles (ATCs) for use in hunting and fishing.
5. Implementation of mandatory check-in and check-out for hunters, and
6. Restrictions on the use of dogs.

In this draft GMP, NPS proposes certain further restrictions the Commission views not only as unnecessary but burdensome for hunters. The "proposed" (some are already implemented) actions with which the Commission disagrees are:

1. Establishment of a 40-day general gun season (except in Deep Lake, which would be archery-only).
2. Establishment of a full-season quota, with non-transferable permits.
3. To allow hunting of some type on 140 days per year (down from a current 179 days).
4. To allow only bird dogs in the Corn Dance Unit.
5. To permit deer and hog dogs during part of the general gun season (the first nine days) only in Turner River Unit, and
6. To allow no dogs in Deep Lake, ... and Stairsteps units.

The Commission recommends the following modifications to the proposed action alternative, consistent with unit-by-unit regulations proposed in our letter of January 30, 1990:

1. Establish a compromise 49-day general gun season in all units (archery-only in Deep Lake).
2. Retain the quota on the first nine days, adding Thanksgiving and Christmas/New Year's quotas. Small data indicate a need to change (utilize the Commission's Saturday vehicle count correlated with the Jansen hunter use study to measure hunter use); also, begin utilizing mandatory check-in/check-out data).
3. Allow 174 days of hunting.

Mr. Bob Baker
Page 4

4. Allow bird dogs and retrievers in all units, except the Deep Lake and Loop Road Unit (walk-in areas), and

5. Permit deer and hog dogs during the first nine days in the Turner River Unit.

Rationale: Although we currently have a better understanding of NPS concerns than at any previous time, we find no compelling reasons presented in the OHP or elsewhere for hunting restrictions beyond those proposed in our January 10 letter. At this time, intensity of harvest and resource use in Big Cypress are conservative. Our January 10 letter proposes a reduction in the number of days in the general gun season. However, this reduction is not based upon a demonstration of negative impact on panthers, but upon a willingness to compromise with NPS.

In terms of the need to balance consumptive and non-consumptive uses, the addition of facilities such as those NPS has proposed in the OHP will achieve that balance. This, in our opinion, is the proper way to achieve balance.

There is very little evidence that hunting has substantial negative impact on panther or prey. Florida panther use within the Big Cypress appears to show a direct relationship with deer carrying capacity of different segments of the habitat. In no case is panther physical condition inversely related to the relative intensity of hunting pressure among management units of the Preserve. It is more likely indirectly attributable to the condition of the vegetative component of the habitat as determined by abiotic factors.

B. Off-road Vehicles: The Commission feels that proposed NPS restrictions on ORV activities, or failure to properly plan for such activities, will effectively accomplish further unnecessary reductions in hunting activity. Examples of such proposed actions or omissions include:

1. Restriction of ORV use caused by failure to plan (with 807) for adequate access from Inheritance 7).
 2. Failure to plan for adequate staging and parking areas for ORVs (13 areas), with a maximum of 130 backing spaces, for vehicles with trailers), and
 3. Failure to plan for upgrading Ferrocchi Grade/Bear Island Road.
- The Commission recommends the following modifications to the proposed action alternative, also consistent with our January 30 letter:

4. Recent studies and incidents with Florida panthers and western cougars in Florida, including studies by the commission, indicate that panthers are sensitive to hunting activity in their habitat and may leave their normal home ranges to avoid areas where there is intensive hunting. The impacts have been revised to more clearly indicate this impact (see the "Environmental Consequences, Impacts on Florida Panthers").

5. Public access to the preserve from I-75 was addressed separately in the Big Cypress I-75 Recreational Access Plan/Environmental Assessment (NPS 1990b) and the associated "Finding of No Significant Impact" (NPS 1991b).

Mr. Bob Baker
Page 5

1. Allow at least limited access for ORVs in all units, except Loop Road (walk-in).

2. Develop Perocchi Grade/Bear Island Road access for street-legal vehicles.

3. Develop ORV access from I-75 at Mile Marker 31, both north and south, with appropriate cross-overs, and

4. Plan adequate staging and parking to accommodate peak use days (900 ORVs).

Rationale: Inability of ORVs to stage north and south at or near Mile Marker 31 would represent an access problem for recreationists who have traditionally staged in these areas, and result in more concentration of ORV impacts in other staging areas. (A comprehensive letter regarding I-75 access points will be sent subsequent to this letter.) There is no justification for failure to provide access off I-75 based upon concerns for the panther. (Page 66 of the GMP indicates such a concern on the part of NPS.)

Commission records indicate the presence of approximately 900 ORVs and transport during peak days (usually the first nine days of the general season). By Commission interpretation of the GMP the proposed actions would provide no more than 130 parking spaces for street-legal vehicles and trailers. If correct, this represents negligent under-planning, assuming that staging will be limited by NPS to designated staging areas.

The Commission has recommended upgrading Perocchi Grade/Bear Island Road for several years. Upgrading to accommodate street-legal vehicles and trailers would represent much-needed accommodation for ORV users. Further, it would enhance opportunities for non-consumptive users in street-legal vehicles, and encourage more walk-in hunters in Bear Island.

C. Visitor Services: The proposed action alternative for visitor services appears worthy of support by the Commission and others. Expansion of interpretive programs, camping opportunities and concessions will encourage appropriate non-consumptive uses within the Preserve.

D. Other Planning Objectives: The following comments are relative to natural resource management activities found in the GMP under "Affected Environment":

1. Vegetation Management: The NPS intent to research the role of fire in the Preserve's varied ecosystem is probably a worthwhile objective from the NPS perspective. However, Commission land management professionals feel there is already adequate

6. Parking capacities at ORV access points along the Tamiami Trail have been reevaluated, and capacities have been increased. The proposed action has been modified to reflect this change.

7. Upgrading of Perocchi Grade is evaluated under alternative B in both the draft and final documents. This action is not included in the proposed action.

8. See response 12 to the U.S. Fish and Wildlife Service.

Mr. Bob Baker
Page 6

information and data to recognize the need for more than 50,000 acres of prescribed burning annually to meet the planning objectives under both vegetation and fire management. Should he accomplish a minimum of 50,000 acres annually (rather than "up to 50,000 acres"), with 100,000 acres annually as a more reasonable objective. This would provide habitat enhancement for many listed species and would greatly improve habitat for deer, hogs and ultimately panthers. Further, this would put the Preserve on an acceptable fire rotation, whereas the 50,000-acre objective would not. (See attached letter of June 16, 1988 as an example of a Commission-recommended burning proposal.)

2. Fire Management: With the exception of the prescribed fire objective noted above, the Commission is in agreement with the NPS proposed actions for fire management.

3. Wildlife Management: The following selective comments are provided under each of several wildlife species addressed in the GMP:

a. Red-cockaded Woodpecker (RCW):

(1) Several different figures are used within the plan as indicative of the number of active colonies found on the Preserve (2A--Page 185; 40 estimated; Pages 185 and 240; 18--Page 240; 130 estimated clans--Page 240). The estimate of 130 clans is particularly puzzling since there is only one clan per colony.

(2) The Commission believes it presumptive for the GMP to state (Page 185) that "Management efforts to date have successfully protected the woodpecker in the Preserve." If the 1981 survey information reported in the GMP is the latest upon which this assumption is made, we feel it inappropriate for NPS to make such a claim.

(3) The most effective management emphasis for RCWs, as for deer, hogs and panthers, would be habitat manipulation, particularly utilizing prescribed fire. Habitat manipulation with fire, as mentioned in the GMP, is the best way to assure adequate foraging areas and remove invading understorey vegetation which interferes with clan activities.

b. White-tailed Deer and Peral Hogs:

9. The errors have been corrected, and the resource information has been updated.

10. The text has been revised accordingly.

Mr. Bob Baker
Page 7

(1) The Commission's suggested management approach for white-tailed deer is covered above under vegetation management and fire management.

(2) Regarding feral hogs, it has been well-documented that hogs are an important prey item for the panther wherever the two species occur together. The panther, like most top predators, exhibit opportunistic behavior. Therefore, we find the attitudes expressed by NPS in the Gap somewhat schizophrenic. There is on one hand NPS wishes to eliminate hogs where they are not important as panther prey items but would submit that such a determination cannot be made within Big Cypress and in fact, may be impossible to make a line the distinction among important and unimportant areas does not exist.

(3) The Commission recommends a protective stance regarding feral hogs on the Preserve. Manage them on a sustained-yield basis, both for the benefit of panthers and recreational hunters. Provide protection for archaeological sites using hog-proof fencing, and for sensitive plant species through hunting and/or habitat management. It is highly unlikely a naturalized exotic species which has occupied the habitat for 300 years is going to cause new and irreparable damage to plant or animal resources, particularly if controlled through hunting and predation.

C. Litmus Tree Snail:

(1) The Commission agrees with the judicious use of fire to "prune the edges of hammocks" as suggested on Page 186. We also agree with NPS that hammocks should be protected from fire, especially during dry years when the effects of altered hydroperiod are more pronounced.

(2) The statement on Page 186 that "... snail collecting is currently banned by the state outside the national preserve" is not altogether accurate. We prohibit arbitrary collecting, but collecting can be done under permit.

D. Florida Panther: The Commission is in agreement with NPS in its proposals to address goals of the Florida Panther Revised Recovery Plan (1987) with some exceptions:

11. See responses 8 and 9 to the U.S. Fish and Wildlife Service.

12. The text has been revised to better reflect the state's management policy concerning tree snails.

Mr. Bob Baker
Page 8

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(3) As noted earlier, maintenance of panther habitat consistent with the recovery plan should include efforts to preserve the fire for more than 30,000 acres annually. One hundred thousand acres is a more rational goal where panther welfare is at stake.

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(2) With reference to the recovery plan's goals, we feel some NPS proposed actions found in the OMP (Page 68, 69, 70, 71) under "Reduction of Human Activity in Florida Panther Habitat" represent a biased interpretation of the recovery plan's intent. The proposals (Pages 183 and 184) that reduction of hunting pressure on deer and hogs, and closer regulation of ORVs was agreed upon by most agencies participating in preparation of the recovery plan is not discussed in the OMP. Certainly, the Commission is not aware of unified agency support for the set of actions proposed by NPS in the OMP, supposedly on behalf of the panther and its welfare.

In summary, we hope NPS will perceive all of the comments we have provided above in the cooperative and consultative spirit in which they are meant. As already stated, the Commission is comfortable in the regulatory and management roles in which we have been cast for over a half century in Florida. Therefore, we view the interactions among natural resources and consumers thereof with more ease than does the NPS.

We respectfully appeal to the NPS to recognize the Commission's primary role in the management and regulation of hunting, fishing, frogging and trapping on Big Cypress National Preserve. The Commission feels strongly that this is the only way our two agencies can formulate a cooperative arrangement and continue comfortably within the provisions of the Type I IMA program. We feel further that NPS' primary land management roles relating to fire, vegetation, cultural resources, non-consumptive uses, and oil and gas activities represent a complement of activities that are more traditional and routine for NPS. We firmly believe that NPS can continue to fulfill its responsibilities under the law within a scenario of division of primary responsibilities between our agencies.

We look forward to continued discussion, and anticipate a resolution to our differences by some means within the coming year.

Sincerely,

Robert M. Brantly
Colonel Robert M. Brantly
Executive Director

9215/dr
9LD 8-5-2

13. See response 12 to the U.S. Fish and Wildlife Service.

14. In preparing the plan the National Park Service contacted official representatives of each of the other agencies of the Florida Panther Interagency Advisory Committee - the game commission, the Florida Department of Natural Resources, and the U.S. Fish and Wildlife Service. With the exception of the commission, the other agencies recommended that hunting pressure and ORV use be further controlled and more closely monitored in the preserve. Citations have been added to the text.

COMMENTS

RESPONSES

- 1. A formal statement has been forwarded to the Florida Department of Environmental Regulation that the final plan is consistent with the Florida Coastal Zone Management Plan. This statement is included in appendix G.



BOB MARTINEZ
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

March 2, 1990

Mr. Fred J. Fagergren, Superintendent
United States Department of the Interior
Big Cypress National Preserve
SR Box 110
Ochopee, Florida 33943

Re: Draft General Management Plan and Draft Environmental Impact
Statement for Big Cypress National Preserve - Collier,
Monroe and Dade Counties, Florida

SAI: FL8908210264E

Dear Mr. Fagergren:

The Florida State Clearinghouse, pursuant to Presidential Executive Order 12372, gubernatorial Executive Order 83-150, the Coastal Zone Management Act and the National Environmental Policy Act, has coordinated a review of the above referenced project.

Pursuant to Presidential Executive Order 12372, the project will be in accord with state plans, programs, procedures and objectives when consideration is given to and action taken on the enclosed comments and requirements of our reviewing agencies.

The federal agency did not provide a federal consistency determination for this project in accordance with 15 CFR 930, subpart C. However, the State has completed a review of the project information available at this time. Based on this information, the project at this stage is consistent with the Florida Coastal Management Program.

Although the State does not object to the proposed work, we have identified several issues which must be resolved as the project progresses through later stages of planning design and funding. As required by 15 CFR 930.24 and .27, at each major point of decision-making the federal agency is required to submit a consistency determination for the state review. The format and content of the determination are described in 15 CFR 930.14-23. The State's continued agreement with this project will be based, in part, on adequate reconciliation of previously identified concerns.

Mr. Papademos
Page Two

This letter reflects your compliance with Presidential Executive
Order 12372.

Sincerely,

Karen E. MacFarland
Karen E. MacFarland, Director
State Clearinghouse

KEM/rt

Enclosure(s)

Response From: Department of Environmental Regulation
Department of Commerce
Department of State

cc: DMR
DCC
LWS
Ted Koehn



STATE OF FLORIDA DEPARTMENT OF COMMERCE
Division of Economic Development

September 13, 1989

Ms. Karen MacFarland
Office of Planning and Budgeting
Executive Office of the Governor
The Capitol
Tallahassee, FL 32399-0001

RE: SAZ # 89082102642

Dear Karen:

The Draft General Management Plan and Draft Environmental Impact Statement for Big Cypress National Preserve is consistent with the goals and policies of the Florida Department of Commerce. This plan will help protect important state resources while improving recreational opportunities in the area.

If you have any questions about any review of this project, please call Ellen Fournier at 487-3150.

Sincerely,

Wynedye Wilson
Economist Supervisor

WW/es/b

COLLING BUILDING

TALLAHASSEE, FLORIDA 32301

TELEX 8100020161 FL TRADES WEA

1. Page 221 of the draft GMP/EIS recognizes the impacts on surface water flows resulting from ORV use. The National Park Service believes that the proposed action would minimize the impacts of ORV activities in the preserve and would be consistent with applicable regulatory authorities and executive orders.



Florida Department of Environmental Regulation
 Twin Towers Office Bldg. • 4000 Blair Stone Road • Tallahassee, Florida 32399-2400
 John Roberts, Assistant Secretary
 300 Atlantic, Governor

September 20, 1989



Mr. Jonathan Davidson, Sr. Attorney
 Intergovernmental Coordination
 Office of the Governor
 419 Carlton Building
 Tallahassee, FL 32399-0001

STATE CLEARINGHOUSE

Dear Mr. Davidson:

Re: Draft General Management Plan and Draft Environmental Impact Statement, Big Cypress National Preserve, FL8908230264E

The National Park Service has prepared the referenced documents to evaluate four alternatives for managing the Big Cypress National Preserve. The management alternatives seek to balance the Park Service's congressional mandate for preservation of natural resources with the environmental impacts of required public use. Our principle concerns are for oil and gas activities and off-road vehicle use, both of which can have demonstrable impacts on the hydrology, water quality, wildlife habitat and endangered species of Big Cypress.

The majority of lands within the Big Cypress National Preserve are classified as wetlands. During the wet season as much as 90% of the preserve is inundated. The water levels at Big Cypress are critical to its ecology, which is finely tuned to the seasonal flow of water. Alteration of the relatively shallow channels which control surface water flows changes the hydroperiod. This subsequently causes a successional change in the preserve's narrowly tolerant plant communities, thereby disrupting the ecology of the preserve. The largest wetland community, the Big Cypress Swamp, is a major source of recharge for the shallow aquifers of south Florida. The aquifers are primarily replenished by rainfall infiltration, thus allowing their continued use as the sole source of drinking water for the region.

Impacts to the water resources of the preserve include off-road vehicle (ORV) use, oil and gas operations and chosen Park Service activities. ORV use will require paths, cause stream degradation, and can affect the structure of many vegetation and are able to travel almost anywhere. ORV activity directly affects water levels and soil types by causing expansive ponding, erosion and

Mr. Jonathan Davidson
 Page 2
 September 20, 1989

<p>Multiple trails through sloughs, creeks and ponds. Actively used OGV trails are wet and cause much of the rainy season. OGV trails cause localized increases in surface water flows, particularly during low water periods. OGVs can cause lasting vegetation damage, even with very little use, and invariably reduce plant diversity and density in areas of persistent use. If the present level of use continues unabated, increased cumulative adverse impacts to the preserve's resource values are inevitable. Existing populations under 30 CFR 7.86 prohibit OGV use which adversely affects the preserve's resources. Executive Order 11641 requires the immediate closure of areas or trails where OGV use is causing considerable adverse effects on soil, vegetation and wildlife habitat. Action should be taken to eliminate the impacts of OGV activities in the preserve.</p>	<p>Effects of geophysical operations can include localized long-term disruption of surface flow patterns caused by seasonal activities in combination with shallow depressions and soil rutting caused by heavy machinery. Vehicular access to stands/slopes causes OGVs some opportunities causes vehicle ruts and vegetation damage. Sustained hydrocarbon alteration results from failures in temporarily restored abandoned roads and oil tanks. In addition, petroleum-related spills and leaks. Oil and gas development should be limited in scope and properly controlled to prevent unacceptable levels of degradation of the preserve's water quality, water regime and hydrobiologically sensitive resources.</p>	<p>THE WATERS WITHIN THE Preserve are "Special Waters", a category of Outstanding Florida Waters. Dredge and fill activities are prohibited in special waters except where clearly in the public interest. Permits or certification may be required under Chapter 403, Florida Statutes, for the following activities described in the DEIS: Filling of jurisdictional wetlands; installing plugs and culverts in canals; refurbishing existing drainage structures and installing new ones; improving the wastewater system - constructing collection system, upgrading system, refurbishing percolation ponds; relocating the fuel station; and paving the dirt airstrip.</p>
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2. Page 221 of the draft GMP/EIS recognizes impacts on surface water resulting from geophysical operations. Provisions required by the National Park Service regarding oil and gas development would effectively mitigate and control unacceptable impact levels on water quality in the preserve.

3. As cited in appendix F of the draft GMP/EIS, appropriate state permits will be obtained during future design and construction phases of plan implementation.

Mr. Jonathan Davidson
[Redacted]
September 20, 1989

The preserve's establishing legislation, PL 93-440, states that the preserve is to be administered in a manner that will ensure its "natural and ecological integrity in perpetuity." Alternative B is the environmentally preferable alternative because it adopts all practicable means of avoiding environmental harm as a result of implementing the selected action, as required by the National Environmental Policy Act, and best reflects this preservation philosophy. Implementing Alternative B:

- would cause the least impacts to water flows;
- would pose the least threat to water quality from waterborne operations;
- would pose a virtually no threat to water entering Everglades National Park;
- would substantially increase the protection of Florida panthers and their habitat; and
- would limit OHV use to designated trails.

The goals of this alternative are more in keeping with the requirements of Chapter 105, Part VIII, Florida Statutes, and Chapters 17-113 and 17-414, Florida Administrative Code, than the other alternatives. When the Park Service develops the final management plan and EIS, its federal consistency determination should focus on these provisions of the Florida Coastal Management Program.

Although Alternative B is preferable from an environmental aspect, it is deficient in environmental education and recreation uses. The Park Service should seek to encourage uses which are compatible with the natural resources of the preserve while protecting resource values. Increasing less impactful uses while limiting more impactful ones will result in a net benefit to the preserve. The Park Service and the public will have an opportunity to discuss the following elements of Alternative A as incorporated into Alternative B:

- Access/Escort
- Canoe/Traffic
- Camping
- Interpretation
- Wild Operations
- Other Visitors

4. A federal consistency determination focusing on the referenced regulations has been forwarded to the Florida Department of Environmental Regulation.
5. The structuring of an additional alternative as suggested would not add to the range of alternatives within the document. The National Park Service believes that a sufficient range of alternatives has been analyzed in the existing document.

COMMENTS

RESPONSES

1. The editorial style used in the document is based on *The Chicago Manual of Style*.



FLORIDA DEPARTMENT OF STATE

Jim Smith
 Secretary of State
 DIVISION OF HISTORICAL RESOURCES

R.A. Gray Building
 500 South Broward
 Tallahassee, Florida 32399-0200
 Director's Office Telephone Number 904/489-1400
 (904) 489-1400 (904) 489-3333

September 28, 1989

Mr. Bob Baker, Regional Director
 Southeast Regional Office
 National Park Service
 75 Spring Street, SW
 Atlanta, Georgia 30303

RE: Cultural Resource Assessment Report
 Draft General Management Plan and
 Draft Environmental Impact Statement,
 Big Cypress National Preserve, Ocala, Florida,
 Monroe and Dale Counties, Florida
 SAI #FL89082102646; Project File No. 892128

Dear Mr. Baker:

In accordance with the procedures contained in 36 C.F.R., Part 800 ("Protection of Historic Properties"), we have reviewed the above referenced projects for possible impact to archeological and historical sites or properties listed or eligible for listing in the National Register of Historic Places. The authority for this procedure is the National Historic Preservation Act of 1966 (Public Law 89-665), as amended.

We note that the current draft document reflects most of our comments and recommendations on the earlier draft. We also note that the subject document does not include the 146,000 acres added to the preserve in 1988 - and that area will be the subject of an addendum to the general management plan. We look forward to participating in the development of the historic resource components of that plan addendum.

With respect to the current document, historic resources are addressed on the following pages 1,4,3,5-6,7,8,12,13,15,21,25,26,29-30,36,39,45,48,57,62,64,74-76,110,123,138,149 (summary of Proposed Action and Alternatives), 195-196,198,218,249-250,276,286-287,296,346, and 382-383. Overall the historic resource information on these pages reflects our earlier January 28, 1988 written comments, and those discussed at a subsequent meeting with NPS Denver Service Center staff representatives. However, we do have some further comments.

On pages 57 and 74, the title for the State Historic Preservation Office is "Lower Case". Is this for some stylistic reason?

Archaeological Research Florida Folklife Program Historic Preservation Museum of Florida History
 (904) 489-2299 (904) 397-2170 (904) 489-3333 (904) 489-1400

COMMENTS

RESPONSES

Mr. Jonathan Davidson
Page 4
September 20, 1989

We appreciate the opportunity to comment on the DEIS and look forward to review of the final document. If assistance is needed in preparing the Federal consistency determination as required by the Coastal Zone Management Act, please contact Lynn Griffin, Intergovernmental Coordination Section at the above address or 904/488-0130.

Sincerely,



Randall L. Armstrong, Director
Division of Water Management

RCA/jmw
cc: Phil Edwards

Mr. Bob Baker
September 28, 1989
Page 2

On page 15, the results of a Florida Department of Natural Resources (FDR) Recreation needs questionnaire are cited. Please be advised that when we were subsequently provided with a copy of that questionnaire, we noted a bias in the structure of the questions with respect to historical site visitation vs other resource activities. The acknowledgment of the bias and subsequently participated with this agency and the Florida Department of Commerce in a Tourism study (copy enclosed). The results of that study should be included to supplement the present study, if the final study results are included in the final document.

On page 74, under Management of Historical and Archeological Resources, it is stated that the National Park Service's Southeast Archeological Center (SEAC) would work with the State Historic Preservation Officer (SHPO) to determine the level of further fieldwork that might be necessary at any of the identified archeological sites, and to determine the potential significance of all sites known within Big Cypress.

Passive and Active Management for sites is also discussed on page 74. The determination of which sites are passively or actively managed depends on a preliminary site significance assessment provided by a SEAC staff member without SHPO consultation. Thus, the need for SHPO and SEAC consultation to determine (1) which sites do not appear to be National Register eligible, (2) which sites clearly are National Register eligible, and (3) which sites are possibly National Register eligible but require further work before a final opinion is possible is sound. If, on pages 367-377, there is no cultural resource funding included in the budgets for any of the resources.

This is surprising in view of the recognition that further work is needed to evaluate selected sites, to interpret some sites, and to provide adequate protection for those sites which are actively managed. Furthermore, without requesting such funding in its budget, how will NPS fulfill its National Historic Preservation Act, Archeological Resources Protection Act, Presidential Executive Order 11593, and American Indian Religious Freedom Act (see pages 382-383) responsibilities.

Finally, on page 195, "mark holders" are among the identified site types. There is no such site type.

In conclusion, we wish to commend the National Park Service for its responsiveness to our earlier comments. However, we urge that NPS/SEAC meet with this agency ASAP to reach consensus on the significant historic resources and to identify those properties which need further evaluation. The results of that consultation process and consideration of interpretive and site protective needs should be reflected in the final budget estimates/request for the Big Cypress National Preserve.

2. The text has been revised.

3. The National Park Service's Southeast Archeological Center estimates the costs of evaluating the eligibility for the National Register of Historic Places of approximately 400 sites at \$425,000 over five years. This estimate includes some testing evaluation, establishment of site boundaries, consultation with the state historic preservation officer, and production of national register forms. The estimate has been added to appendix D.

4. The term rock midden has been deleted.

5. The Southeast Archeological Center will consult with the Division of Historical Resources to determine from currently available data which sites will receive further testing evaluation to determine significance, which sites do not require further evaluation, and which sites are definitely eligible for inclusion on the national register.

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COMMENTS

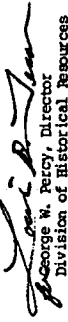
RESPONSES

Mr. Bob Baker
September 28, 1989
Page 3

If you have any questions concerning our comments, please do not hesitate to contact us.

Your interest and cooperation in helping to protect Florida's archaeological and historical resources are appreciated.

Sincerely,



George W. Percy, Director
Division of Historical Resources
and

State Historic Preservation Officer

GRP/cg
cc: Richard D. Faust
Don Klima
Karen MacFarland



Southwest Florida Regional Planning Council

4980 Hayline Drive, 4th Floor, N. Ft. Myers, FL 33917-8508 (813) 995-4293

P.O. Box 3485, N. Ft. Myers, FL 33916-3485 SUNCOM 731-7890 / 7891

October 11, 1989

Mr. Bob Baker, Regional Director
 Southeast Regional Office
 U.S. Dept. of the Interior
 National Park Service
 75 Springs Street, SW
 Atlanta, Georgia 30303

RE: IC&R PROJECT #89-165
 PROJECT NAME: Draft General Management Plan/Draft Environmental Impact Statement: Big Cypress National Preserve, FL

Dear Mr. Baker:

The staff of the Southwest Florida Regional Planning Council reviews various proposals, Notifications of Intent, Preapplications, permit applications, and Environmental Impact Statements for compliance with regional goals, objectives and policies, as determined by the Regional Comprehensive Policy Plan. The staff reviews such items in accordance with the Florida Intergovernmental Coordination and Review Process (Chapter 291.5, F.A.C.) and adopted regional clearinghouse procedures.

These designations determine Council staff procedure in regards to the reviewed project. The four designations are:

Less Than Regionally Significant and Consistent - no further review of the project can be expected from Council.

Less Than Regionally Significant and Inconsistent - Council does not find the project of regional importance, but will note certain concerns as part of its continued monitoring for cumulative impact within the noted goal areas.

Regionally Significant and Consistent - Project is of regional importance and appears to be consistent with Regional goals, objectives and, policies.

TO: Mr. Bob Baker
 DATE: October 11, 1989
 PAGE: 2
 RE: IC&R PROJECT #89-163

Regionally Significant and Inconsistent - Project is of regional importance and does not appear to be consistent with Regional goals, objectives, and policies. Council will oppose the project as submitted, but is willing to participate in any efforts to modify the project to mitigate the concerns.

The above-referenced draft management Plan has been reviewed by this office and has been found regionally significant and consistent with adopted goals, objectives, and policies of the Regional Comprehensive Policy Plan. Project consistency is based on the following:

1. Regional staff had no objection to the proposed interpretive activities and facilities. However, less concern should be given to possible duplication of effort between Big Cypress National Preserve and Everglades National Park. The access points between the two areas are generally far enough apart that visitors to one are not necessarily visitors to another.
2. The number of camps allowed to use the proposed back country campsites in the Deep Lake, Bear Island and Oren District units should be limited so as to lessen impacts to known sensitive areas. Camping sites in these units should be designated in order to control and monitor camping impacts.
3. The management should seek to reduce or restrict private off-road vehicle (including swamp buggy) use in the Preserve. Private or preserve-managed group lanes (swamp buggy rides) could be allowed in areas where they were not likely to cause serious environmental impact. The proposed concessionaire schedule does not indicate that one of the concessionaire duties will be to inform visitors of ORV limitations or prohibitions. This should be included.
4. The proposed minerals management plan allows 10% of the preserve to be subject to the influences of oil and gas exploration and drilling at any one time. In view of the potential hazards from an oil spill on the water quality, vegetation and wildlife of the preserve, 10% is far too extensive.

5. The National Park Service should investigate the possibility of harvesting Melaleuca stands for the purpose of mulch production. The Paper Tree Bark Mulch is a marketable product (already available in the region), and a harvesting program might help to control the spread of this species.
6. Australian Pine areas should be gradually replaced to native vegetation.
7. Historic and/or archeological sites do not appear to be protected from off-road vehicle or collecting impacts under the proposed plan. Such protection should be incorporated into the plan.

1. Designated campsites are proposed for these units.
2. The proposed action has been revised to provide only concessioner-guided ORV interpretive tours, rather than unguided ORV rentals.
3. Such cost-effective treatment of exotic plants is being investigated.
4. The replacement of Australian pine with native plants is the intent of the plan.
5. ORV use would be directed away from known or potential archeological resource sites. As noted in the plan, unauthorized collection of archeological resources on federal lands is prohibited by law.

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COMMENTS

RESPONSES

TO: Mr. Bob Baker
DATE: October 11, 1989
PAGE: 3
RE: IC&R PROJECT #89-165

Questions or comments on the above conditions for consistency should be addressed to Glenn Heath, IC&R Coordinator.

This recommendation will be discussed at the next scheduled Council meeting. Should Council action differ from the staff recommendation, you will be notified.

Sincerely,

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL.


Weyne E. Dailly
Executive Director

WED/GBH/rt



COLLIER COUNTY GOVERNMENT

DIVISION OF ADMINISTRATIVE SERVICES
NATURAL RESOURCES DEPARTMENT

3301 E. TAMiami TR
NAPLES, FL 33962
(813) 774-8464
A CERTIFIED BLUE CHIP COMMUNITY

October 9, 1989

Mr. Bob Baker
National Park Service Regional Director
Southeast Regional Office
75 Spring St., SW 30303
Atlanta, Georgia

Dear Mr. Baker:

Thank you for the opportunity to provide comment on the recent Draft General Management Plan and Draft Environmental Impact Statement for the Big Cypress National Preserve. Attached is a brief outline with comments for your consideration.

If you require further comments or information, please call our office at (813) 774-8454.

Sincerely,

James N. Burch

James N. Burch, Chief Environmental Specialist
Natural Resources Department

JNB:jg/0116

cc: W.N. Dorrill, County Manager
W.D. Lorenz, Jr., Environmental Services, Administrator
encl.: Attachment

COMMENTS ON THE DRAFT GENERAL MANAGEMENT PLAN, DRAFT
ENVIRONMENTAL IMPACT STATEMENT FOR THE BIG CYPRESS NATIONAL
PRESERVE IN COLLIER COUNTY, FLORIDA

GENERAL COMMENTS:

As outlined in the Conservation and Coastal Management Element of the current Collier County Growth Management Plan, the Big Cypress National Preserve (BCNP) occupies much of the eastern half of the County. The area is mostly in a natural state with little settlement and few roads. Some agricultural use takes place in the northern parts of the preserve, mostly as areas leased for grazing, and some surface mining for fill has occurred near major roads. Petroleum exploration has been done throughout the preserve, and development for petroleum extraction has occurred in two locations. The preserve harbors much of the remaining habitat for many of the species indigenous to our area. Dwyer (1985) lists 29 animal and 13 plant species that are listed as species with special status (Florida Committee on Rare and Endangered Plants and Animals, Smithsonian list, State of Florida), in BCNP. Collier County is aware of the importance of these resources and will make every effort to participate in the management and conservation of our shared naturally occurring resource elements.

The Draft General Management Plan and Draft Environmental Impact Statement for the BCNP (U.S. Department of the Interior, 1989) that has been submitted has outlined the major management concerns for the Preserve's future, with action that is proposed for management and address of each concern, and alternative actions and outcomes for each case. I believe that our office can support the BCNP management objectives presented here, as they are in line with the Goals, Objectives and Policies of the Conservation and Coastal Management Element of the County Growth Management Plan. In particular the BCNP Management Plan supports Goal 6, which requires protection and conservation of native biological communities. The County and BCNP also participate in several State and Federal programs that are important to both, including the Area of Critical State Concern, the Outstanding Florida Waters program, and the Coastal Zone Management program. This intergovernmental agency coordination supports Objective 6.7 in the Conservation and Coastal Management Element of the County Growth Management Plan.

The proposed actions of the plan provide some compromises between the major special interest groups and their concerns with the preserve, and attempt to allow reasonable land use by affected residents (Table 1). Again, our office offers support to these proposed actions, but takes this opportunity to provide comment, usually as support for listed alternatives, for

consideration by the U.S. Department of the Interior, National Park Service.

SPECIFIC COMMENTS:

- 1. Visitor Use: Passive recreation and land use should be encouraged to minimize habitat destruction. Promoting this type of activity with an emphasis on public education in visitor use may promote a greater awareness and general public understanding of environmental issues. In this case, Alternative A may be a more appropriate program for visitor interpretation.

Proposed Actions on other visitor uses offer reasonable compromises for activities listed. Collier County Natural Resources Management supports the proposed controls on ORV traffic and moderate hunting restrictions in the preserve. Appropriate controls on these activities will be important to minimize natural habitat destruction and allow human activity in these areas.

- 2. Natural Resources Management: The Proposed Actions generally support Goal 6 on the Conservation and Coastal Management Element of the County Growth Management Plan. In habitat

protection, WOLFSON'S RECOMMENDATIONS FOR IMPROVEMENTS TO ROAD PROTECTION. Our office supports this action if it will help to restore natural surface flow as outlined for the Turner River and Shiden Road canal areas; however, simply improving drainage in some areas may not improve the affected habitats, but may cause severe environmental damage to these areas.

Construction of I-75 through BCP should be done only with regard to changes to habitats that may occur because of its construction. Considerations should include possible permanent perturbation of ground water flow and subsequent disruption of habitats, and the enlargement of a physical, ecological barrier through the entire width of the Preserve.

A ten percent limitation on surface area available for petroleum development at a given time may avail about 90 mi² (my estimate from figures on p.101, Table 6) for this use. This seems to be a generous allowance of area for activities that have a documented potential to create long lasting wildlife hazards; however, this may be important for projected well life spans, or area considerations of wells and noise influences by development activity. Regardless of the percentage of area to be allowed for mineral development, exploration, or extraction, it will be important to insure that recovery of these areas is complete or imminent before allowing further development that would exceed the allowed

- 1. "Drainage improvement" as used in this plan refers to actions to correct disruptions to natural surface water flows. Other than selective filling necessary to provide limited visitor use and operational facilities, no artificial drainage or impoundments are called for in the plan.
- 2. The construction of I-75 through the preserve is not an action of the National Park Service and is not subject to analysis in the final GMP/EIS. The environmental impacts of the construction of I-75 were assessed by the Florida Department of Transportation before construction, and efforts have been made to mitigate potential impacts to hydrology and wildlife in the preserve.

percentage of development.

The County supports the proposed expansion of exotic plant control within the park area. Several County ordinances require the removal of noxious exotic species (*Melaleuca quinquenervia*, *Schinus lebanthifolius*, *Sassafras* spp. and *Rhodomyrtus tomentosa*) in development areas) removal of exotic species in natural areas for use by the public should be vigorously pursued. Elimination of these species in federally owned areas should provide positive examples of exotic species control, as has been done in several County owned areas.

Programs that are planned for enhancing populations of protected species are an important step toward saving these species; however, these programs should be expanded to include all listed protected flora and fauna. Collection of Limus snail shells should be limited to non-living specimens only.

3. Cultural Resource Management: Replacement of damaged or destroyed cultural resources is impossible. Active management of these sites (Alternative B) is encouraged.
4. National Park Service Operations: County Natural Resources Department supports proposed actions in most categories; however, as outlined in previous sections other alternatives are offered for consideration:

Alternative B should be considered in management of surface water flows, as this provides fewer acres of altered surface water flow. Management strategy for marshes and old growth pine lands should consider Alternative B, as this would offer more area of ORV trail recovery. Enhancement of Florida B, as Panther population projects should consider Alternative B, as it offers the greatest probability of successful recovery of this subspecies. Similarly, Alternative B offers the most protection for cultural resources and should be considered for application to these sites.

CONCLUSION:

Collier County supports the proposed management plan, with comments on the points previously listed. Strong consideration should be made on the following points:

- Minimize activities that may compromise the biological systems integrity of existing native habitat areas.
- Maximize activities that will help to restore native biological systems integrity to habitat areas.
- Optimize appropriate, non-destructive human land use

3. Based on the U.S. Fish and Wildlife Service review of the plan, listed species other than those specifically addressed in the proposed action would be protected under long-term general management practices in the preserve. However, if new threats to species were identified, specific action plans for protection would be developed in cooperation with the state, the U.S. Fish and Wildlife Service, and other interested parties.

COMMENTS

RESPONSES

- activities within Preserve limits.
- Emphasize the importance of intact natural systems in supporting all species, including humans.

TABLE 1
 Some fundamental differences in proposed action and alternatives
 in the Draft General Management Plan and Draft Environmental
 Impact Statement for the Big Cypress National Preserve.

PLANS	GENERAL OUTCOME
Status Quo	- respond to needs as they arise
Alternative A	- more visitor use and resource exploitation - fewer restriction - Advantage: greater amount of human recreation and
Alternative B	- Less visitor use and resource exploitation - Advantage: greater protection of wildlife habitat
Proposed Action	- Balanced land use with some restrictions - Advantages: attempts to balance between human and wildlife needs

COMMENTS

RESPONSES

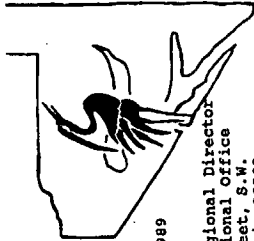
REFERENCES

Duaver, M.J., J.E. Carlson, J.F. Weeder, L.C. Duever, L.H. Gundersen, L.A. Ricipelle, T.R. Alexander, R.L. Myers and D.P. Spangler, 1985. The Big Cypress National Preserve. National Audubon Society; 444 pp.

JNB:PC/1942

1. Public Law 93-440, which established the preserve, directs that oil and gas operations, hunting, ORV use, and other uses be allowed in the preserve to the extent resource values and the ecological integrity of the Big Cypress are not adversely affected (see the draft GMP/EIS, appendix A, page 322). The proposed action is designed to manage these uses while protecting the preserve (see "Planning Perspective" section of the document).

The National Park Service formally consulted with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act. The U.S. Fish and Wildlife Service issued a biological opinion that it is unlikely that the final proposed action would jeopardize the survival of the Florida panther, the red-cockaded woodpecker, or other federally listed species.



"FROM BIRDWATCHING TO THE TOTAL ENVIRONMENT"

November 3, 1989

Bob Baker, Regional Director
Southeast Regional Office
75 Spring Street, S.W.
Atlanta, Georgia 30303

Gentlemen:

We have reviewed the draft general management plan and draft environmental impact statement for the Big Cypress National Preserve. It was surprising and disappointing that the plan endorsed by the National Park Service (of all people) would tolerate further destruction and deterioration of panther and red-cockaded woodpecker habitat and food supply, and destruction of natural resources for oil and gas exploration and drilling hunting and off-road vehicle usage.

We ask that hunting be closed totally in known panther habitat. Hunting should be severely restricted if not completely closed in all areas adjacent to the known or suspected habitats as well. Expressly stated within the draft is grave concern for the survival of the panther over the next ten years. It is urgent that we exercise every available option in averting the extinction of the panther.

We find oil and gas exploration and drilling inappropriate in a national preserve, particularly when coupled with its admittedly detrimental effect on the environment and habitat of endangered species. The effects of land usage have often been much more deleterious than was ever expected. We urge, at the very least, that the most restrictive plan (alternate #) be endorsed for the Big Cypress National Preserve and strongly support much more stringent land usage than is even anticipated by that alternative.

Very truly yours,

Jacalyn M. Kolk

Jacalyn M. Kolk, President
Gail Lyman, Recording Secretary

JNK/lvt

cc: Fred Fagergren, Superintendent Florida Audubon Society
Big Cypress National Preserve Attn: Bernard Yokel
S.R. Box 110 1101 Audubon Way
Ochopee, Florida 33943 Maitland, FL 32751

Bay County Audubon Society • P.O. Box 1182 • Panama City, Florida 32402

DEC 4 1989



November 27, 1989

Bob Baker
National Park Service
75 Spring Street
Atlanta, GA 30303

Dear Bob:

We represent motorized recreationists and other sportsmen nationwide through our over 120 member organizations. Recreational access and reasonable hunting regulations are important to our members. The anti-hunting anti-motorized access organizations are likely pressuring you for stricter regulations for the Big Cypress National Preserve. We would like to make the following recommendations for the BCNP General Management Plan.

The existing traditional hunting seasons and hunting access should be retained. The enclosed questionnaire outlines our position on these issues. Please notify us of your decision on the issues outlined in the questionnaire. Thank you!

Sincerely,

Clark L. Collins, Executive Director

1. Data and incidents supporting the need to change past hunting management practices are provided in the final GMP/EIS in the following sections: "Proposed Action, Hunting" and "Wildlife" sections, "Affected Environment, Wildlife" and "Hunting" sections, and "Environmental Consequences, Impacts on the Florida Panther," "Impacts on White-tailed Deer and Feral Hogs," and "Impacts on Hunters and Hunting."

2. The National Park Service and the state have resolved issues concerning this question. The hunting section in the proposed action reflects this agreement and provides for a revised quota system.

3. See response 5, U.S. Fish and Wildlife Service.

4. See response 8, U.S. Fish and Wildlife Service.

5. See response 5, U.S. Fish and Wildlife Service. This revision was mutually agreed to by state officials.

6. The National Park Service concurs.

7. In the expanses of prairie, marshes, and other portions of the preserve ORVs are not confined to trails by natural features, and unlimited ORV use poses a threat to many preserve resources.

8. Even though ORVs provide much easier access to the backcountry, removal of ORV access would not render an area inaccessible. Before the widespread use of ORVs, access in the Big Cypress was commonly by foot and boat, although it was difficult (Stone 1979). Many hunters and hikers enjoy the challenges of motorless backcountry travel in the preserve today.

9. Documentation of damage to certain soils and vegetation is provided in the final GMP/EIS; see "Proposed Action, ORV Use," and the "Environmental Consequences, Impacts on Marshes."

10. ORV permits and hunting licenses are not necessarily related nor are they dependent on one another. As a result, no change has been made in the GMP provisions for hunting or ORV use.

PLEASE check the items you want. We suggest that you check each "X" item.

Get responses you want to send a letter to me on Sept. 11, Dec. 1, 1989.

Regional Director Bob Baker
National Park Service
75 Spring Street
Atlanta GA, 30303

Dear Mr. Baker:

I suggest the following checked items for the Big Cypress National Preserve (BCNP) General Management Plan. Please make this response a part of the public record on the public Management Plan for the BCNP submitted by the National Park Service (NPS).

1. NPS wants a 40 day general gun season and 140 days of hunting per year. This is being done to make the activity more consistent with NPS philosophy without any sporting hunting permit. NPS wants 200 days of hunting per year, including archery, aerial, bow, and small game seasons. NPS wants 200 days of hunting per year, including archery, aerial, bow, and small game seasons. NPS wants 200 days of hunting per year, including archery, aerial, bow, and small game seasons.

2. NPS wants a full season quota that is non-transferable. The BCNP is under used by sportsmen. Today there is only 1 hunter per 4,000 acres at peak use times. There should be a quota for the first 10 days and then first come first served on the rest of the season. Other hunters are to have no hunting quota after the first 10 days. The State has already taken the appropriate actions to protect the remnant Florida panther and other wildlife to do so.

3. NPS wants to eliminate dog use for deer and hog hunting on 70% of the BCNP. Dog use for hunting is a major problem. NPS wants to eliminate dog use for deer and hog hunting on 70% of the BCNP. Dog use for hunting is a major problem. NPS wants to eliminate dog use for deer and hog hunting on 70% of the BCNP. Dog use for hunting is a major problem.

4. NPS wants to eliminate the bow. This is desired because it is not unique to the area. The bow is not unique to the area. NPS wants to eliminate the bow. This is desired because it is not unique to the area. The bow is not unique to the area. NPS wants to eliminate the bow. This is desired because it is not unique to the area.

5. NPS wants to drastically reduce the area one can hunt these animals. There is no biological data to support this. NPS wants to drastically reduce the area one can hunt these animals. There is no biological data to support this. NPS wants to drastically reduce the area one can hunt these animals. There is no biological data to support this.

6. NPS wants archery only in the Deep Lake Unit. Archery is currently restricted to such trails and areas by the NPS. NPS wants archery only in the Deep Lake Unit. Archery is currently restricted to such trails and areas by the NPS. NPS wants archery only in the Deep Lake Unit. Archery is currently restricted to such trails and areas by the NPS.

7. NPS wants to close Deep Lake, keep the Loop closed, reduce swamp bog use in the Star Step Unit, designate trails and areas for use in other units. Deep Lake is currently closed. NPS wants to close Deep Lake, keep the Loop closed, reduce swamp bog use in the Star Step Unit, designate trails and areas for use in other units. Deep Lake is currently closed. NPS wants to close Deep Lake, keep the Loop closed, reduce swamp bog use in the Star Step Unit, designate trails and areas for use in other units.

8. NPS wants to eliminate motor vehicles on 70% of the BCNP. Motor vehicles are currently restricted to such trails and areas by the NPS. NPS wants to eliminate motor vehicles on 70% of the BCNP. Motor vehicles are currently restricted to such trails and areas by the NPS. NPS wants to eliminate motor vehicles on 70% of the BCNP. Motor vehicles are currently restricted to such trails and areas by the NPS.

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Sincerely,
Name: Bob Baker
Address: 75 Spring Street, Atlanta GA, 30303
Phone: 404/527-1552
Date: 9/23/89

10. The "Environmental Consequences" section for the status quo alternative describes the impact of tracked vehicles on the resources of Big Cypress. Because of the documented long-term impacts resulting from such vehicle use, their use has been prohibited within the preserve.
11. ORV and other recreational access from I-75 was addressed in the *Big Cypress National Preserve I-75 Recreational Access Plan/Environmental Assessment* (NPS 1990b) and the associated "Finding of No Significant Impact" (NPS 1991b). The access plan provides boat and foot access at mile-marker 31 and boat, foot, and ORV access at mile-markers 38 and 49, as well as a system of ORV trails and areas in the northern portion of the preserve.
12. The proposed action includes separation of ORV and hiking trails wherever practicable.
13. It is not anticipated that new interpretive facilities and activities would interfere with traditional recreational uses.
14. The final GMP/EIS does not apply to the 1988 addition lands; as cited in the document, general management planning for the addition will be conducted in the future as an addendum to the general management plan.

The Conservancy

Offices and Nature Center • 1450 Merritt Drive • Naples, Florida 33962 • 813-262-0064
(located off Goodlette Road at 14th Avenue North)

November 27, 1989

Mr. Bob Baker, Regional Director
Southeast Regional Office
75 Spring Street
Atlanta, Georgia 30303

Dear Mr. Baker:

The publication of the recently completed Draft General Management Plan (DGMP) and Draft Environmental Impact Statement for the Big Cypress National Preserve (BCNP) is an important step towards providing the guidelines necessary to protect the integrity of this complex ecosystem. In light of south Florida's explosive population growth and continuing urbanization, the responsible management of existing natural areas is of paramount importance.

The Conservancy, Inc.'s Environmental Protection Division has strongly supported the development of the management plan and has participated in the review of the National Park Service's proposed management objectives regarding the BCNP. The current DGMP brings us much closer to realizing these objectives. Comments by the Conservancy's staff biologist on the current DGMP are included in the enclosed memorandum.

We welcome the opportunity to participate in the formulation of the management plan for the BCNP. If you have any questions or need additional information, please contact our offices.

Sincerely,



MARK A. BENEDICT, Ph.D.
Director Environmental Protection
Natural Resources Management

encl.
cc: Fred Fagergren

MEMORANDUM

To: Mark Benedict
From: David Addison *DA*
Date: November 22, 1989
Subject: Review of the Draft General Management Plan (DGMP) for the Big Cypress National Preserve (BCNP)

In its present form the DGMP presents a balanced approach to protecting the ecological integrity of the BCNP while, at the same time, providing reasonable management alternatives for traditional consumptive activities such as hunting, the use of off-road vehicles (ORVs), and exploration for and extraction of mineral resources.

The expansion of interpretive services and facilities under the Proposed Action is a positive step towards increasing public awareness of the ecological significance of the BCNP as it relates to south Florida. There has always been a lack of public awareness regarding the Preserve and its objectives. I believe it would be in the best interests of the BCNP to further increase interpretive facilities along some of the lines presented under Alternative A. Aside from their educational value, these steps would increase the opportunity for more low impact, non-consumptive uses such as canoeing, hiking, and birding. Under Alternative A, I support the installation of an additional orientation/information exhibit at the proposed Cypress Lane ORV access/staging area between mile markers 31 and 32 on I-75. This would provide information for people traveling east on I-75. Consideration should also be given to the construction of the ORV staging/parking area on I-75 at Cypress Lane as outlined under Alternative A. This facility might serve to reduce the level of ORV use in the Bear Island Unit while, at the same time, providing another access point for hikers, etc.

Under Alternative A, the suggested establishment of an interpretive road open to street legal vehicles on Perocchi Grade presents some problems. The improvement of this narrow road would prove to be costly and require a considerable amount of wetlands filling. Perocchi Grade is more suitable as an ORV access point. On the other hand, Bear Island Road presents the National Park Service (NPS) with an excellent opportunity for providing access by street legal vehicles, particularly in light of the planned construction of an interchange at I-75 and SR 29. There will likely be an increasing demand for access to the Turner River Road as a result of the construction of this interchange. While public access to Bear Island Road in the immediate future would conflict with the current oil production

operations, once production stops (estimated in 5-8 years) access to this road could easily be made available to the public at very little cost to the NPS. Interpretive wayside exhibits and, possibly, short, self-guiding nature trails could then be provided along the road.

With regard to the Florida Trail, I am in favor of rerouting it to the Ochopee headquarters as described in Alternative A. This addition, along with the existing route north of the Ocala ranger station, would provide two possible routes for hikers so that they could loop back to US 41 or, if they wished, hike on up to I-75. The establishment of a group campground at Pinecrest would also offer hikers the opportunity to utilize a basecamp from which they could walk to various areas in the Preserve. Another consideration relates to the cleanup of acquired tracts. Before structures are destroyed or fill pads returned to grade, they should be evaluated as possible locations for backcountry camp sites. The location of the NPS's pistol range at the Ocala ranger station should be carefully evaluated to ensure that hikers on the Florida Trail could not be struck by a ricochet. The same consideration should be given regarding the heliport, hanger, pilot office, and, in particular, the fueling facilities.

With respect to the Proposed Action dealing with natural resource management, I concur with the NPS's recommendations with one exception. The status of live muskeg tree snails should be restricted to collection for documented scientific purposes only. This is more in line with Alternative B, however, it would permit the taking of reasonable numbers for research purposes rather than none at all.

The spread of exotic vegetation, particularly melaleuca is one of the most immediate threats to the BCMP based on the area (38,400 acres) already infested by this noxious exotic. I am concerned that the acreage proposed for treatment (7,500) annually may not be enough to keep ahead of its spread. The expansion of these efforts under the BCMP would be of great benefit to the Preserve. The more quickly the spread of this exotic plant can be brought under control the better.

Reducing the impact of ORVs is another particularly difficult management issue. In areas where ORV trails are very heavily used there is the tendency for these paths to become ever wider and spread out as the operators maneuver to seek firmer ground. Under these conditions, a possible solution to this problem would be the use of a suitable fill material (limestone or soil cement) on ORV paths in order to confine these impacts to smaller areas rather than having them spread over wider areas of wetlands. This would offer a more long-term solution to this problem. While this approach would permanently impact some wetlands, the acreage of wetlands left undisturbed as a result would likely offset such losses. This is particularly relevant considering the fact that the current staffing levels of the BCMP are inadequate to constantly monitor whether or not ORV operators are wandering too far off the more heavily traveled designated trails.

1. Tree snail collection for valid scientific purposes is accommodated under the proposed action through special permits.

2. The acreage infested by exotic plants that is proposed for annual treatment is based on NPS estimates for adequate control.

3. The proposed action includes treatment of ORV trail segments to contain environmental impacts.

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2

3

Everglades Conservation & Sportsman Club
Jack Hawkins
Chairman of Conservation Committee
5100 N.W. 1st Street
Miami, Florida 33126

Mr. James Ridenour
Director of National Park Service
C Street 18 & 19 St. Dept. of Interior
Washington, D.C. 20240

Dear Mr. Ridenour,

In 1988 Public Law 100-301 added 146,000 acres to the Big Cypress National Preserve.

We support the Game and Fresh Water Fish Commission 1988-89 rules and regulations on the Big Cypress National Preserve and hunting and fishing on the additional 146,000 acres until the Big Cypress National Preserve has been given the money to acquire the land.

We would like to have hunting and fishing just like it has been for the last ten years.

We support the National Park Service General Management Plan "A".

Sincerely,

Alan Holter
12300 SW 25th Terr.
Aurora, FL 32032

- c/c: Secretary Manuel LeJuan
- Florida Game and Fresh Water Commission Chairman W.G. Bostick Jr.
- Mrs. Mary Jolly, National Rifle Association
- Manly Fuller, Florida Wildlife Federation
- Mr. Tom Addis, Wildlife Legislative Fund of America
- Mr. L. Williamson, Wildlife Management Institute
- Mr. Franklyn Adams, Izaak Walton League
- Dr. R. Rosen, National Wildlife Federation
- Everglades Co-ordination Council

COMMENTS

RESPONSES

Mr. J. Deese, Fla. Coon Hunters Assoc.
Mr. Connie Mack Senator
Mr. Bob Graham Senator
Governor Bob Martinez
Mr. Dante B. Fascell Rep.
Mr. William Lehman Rep.
Mr. Larry Smith Rep.
Mr. Tom Mc Pherson Senator
Mrs. Ileana Ros-Lehtinen
Col. Dan Dunford Florida Game & Fresh Water Fish Commission
Honorable Ron Marlins
Col. Robert Brantly Florida Game & Fresh Water Fish Comm.
Fred J. Fagergran Sup. of National Park Service

Page 1

EVERGLADES CO-ORDINATING COUNCIL
7901 W. 25 CT., BIALEAH, FL, 33016
RESPONSE TO THE NATIONAL PARK SERVICE'S GENERAL MANAGEMENT PLAN FOR
THE
BIG CYPRESS NATIONAL PRESERVE

FREDDY FISIKELLY
PRESIDENT

TABULATED BY
L. JACK MOLLER, SECRETARY
NOVEMBER 20, 1989

APPROVED BY THE DELEGATES NOVEMBER 2, 1989

Mr. Bob Baker
Regional Director of the
National Park Service
75 Spring Street, SW
Atlanta, GA.

Dear Mr. Baker:

The following work has been created by many hours of discussion and work with members of the Everglades Co-ordinating Council. All member organizations have had an opportunity for input into this document. This work represents a total of hundreds of years of experiences by lay-men and professionals all over the Big Cypress National Preserve.

We request that the entire document and attachments be made a part of the Congressional Record on this matter.

We request that the National Park Service kindly give this document, the enabling act, amending act and supporting testimony full consideration as the Service proceeds to protect the Big Cypress and provide for the enjoyment of the area by those supporters who helped created the acts.

INTRODUCTION:

It is a well known fact that if the non-hunter and hunter had not worked together to save the Big Cypress the Big Cypress National Preserve would not have been created (see the attached letter from Mr. Joe Browder). There were many options that the creators of the enabling act could have taken but they all had problems with agencies that tended to allow uses that would have eventually destroyed the Big Cypress thus the National Park Service was selected to administer the enabling act.

It needs to be pointed out that the Department of Interior, representing the NPS, stated before Congressional hearings on this matter that the Florida Game and Fish Commission would be the state agency responsible for game management. Game management includes but

1. The enabling legislation for the preserve provides for certain uses and activities not normally provided for in traditional park legislation. The proposals and the alternatives presented in the final GMP/EIS recognize these requirements and provide for and support these uses and activities.

In March 1974, prior to the passage of PL 93-440, then Assistant Secretary of the Interior Nathaniel Reed testified before the Senate Subcommittee on National Parks and Recreation that he anticipated that the state would assist the National Park Service by continuing to manage hunting and fishing in the preserve, in accordance with federal and state laws. He further testified that monitoring and management of ORV use was also anticipated because of potential impacts to resources. Mr. Reed's statements represent the understanding of the draft legislation at that time and do not constitute a "promise" by the federal government to freeze future management or use levels.

Close cooperation between the state and the National Park Service for wildlife management in the preserve is the intent of PL 93-440 and PL 100-301, as well as the desire of National Park Service. However, both laws also state that the preserve is to be managed as a unit of the national park system. The National Park Service cannot act in derogation of its legal responsibility to actively protect and manage resources within its jurisdiction. The Park Service will continue to seek the cooperation of the state of Florida in carrying out this mission.

2. Hunting and ORV use were not included in the Florida Department of Natural Resources report. The text has been revised to reflect this.

3. Section 3(b)(i) of PL 93-440 states "a detached, one family dwelling, construction of which was begun before November 23, 1971." The text has been corrected.

page 2

is not limited to such issues as the use of ORV's, the time and length of hunting seasons, type of hunting access and habitat management. Many of these problems are not being honored today.

Further the Department of Interior, speaking for all the agencies under its jurisdiction told congress and the public supporting the enabling there would be no reduction in use. This simply means the type, style and amount of use would not be reduced when the enabling act passed. Today the National Park Service does not consider this testimony as pertinent and has already reduced use of the Big Cypress National Preserve (BCNP) to a fraction of what it was in 1971-74.

We would also like to point out that the Congressional Committee told the Assistant Secretary for Fish, Wildlife and Parks that the National Park Service did not have to be consistent with NPS policy when administering the BCNP because this unit of the Park would be new and a "different breed of cat."

There was a turning point for passage of the enabling where many sportmen felt that developers were correct. These land speculators told sportmen that the NPS would kick out the hunters once the land was under the jurisdiction of the NPS. The Department of Interior sent a strongly worded letter to the leaders of hunting/conservation organizations in South Florida and the Nation assuring them and their membership that this action would not happen. Yet today the thrust of the NPS's action is to further reduce the already drastically reduced hunting use of the area by 50% besides it will allow those few people who are concerned about personal safety more time in the BCNP. At this time it appears the DOI was wrong and the developers were correct--the NPS wants hunters and those traditional uses protected by law held to a minimum if not eliminated.

Critique of the BIS script:

In general the document is written in a fairly unbiased manner and we suppose this is quite an accomplishment for an agency of the Federal Government that is not known for supporting the uses protected in the BCNP.

We wonder why there is no listing of hunting in Table I on page 16. Certainly the State Department of Natural Resources (which has not been a supporter of hunting because of their resentment of Florida Game and Fish Commission's State Constitutional status) obtained some data on hunting in Region IX. It is our opinion this topic was left out as usual when the NPS develop the need to reduce hunting because of the popularity of other activities which, most of them, are not suitable for the BCNP.

On page 30 we find that the NPS continues to use the word "point" in an attempt to alter the status of exempt landholdings. The law reads "buildings" begun before November 23, 1971 not "built" before this date. This issue has been brought before the local and regional people on a number of occasions and we had been promised that the language of the law would be used. However we see this promise is like the others and the NPS is continuing their attempt to alter the enabling act to satisfy their Service management philosophy.

4 We also believe the transportation zone should include the trails and areas that are being designated at this time for use by ORV's. This is needed because the criteria selected by the NPS to evaluate the use of ORV's in these places is too nebulous. Thus these trails and areas will eventually be closed down by some future Superintendent and the use of ORV's will be precluded.

We have addressed the closure of trails and areas at the local level. The Superintendent has told us that the Service acknowledges some level of disturbance is going to occur and is acceptable. However, without concrete measurable parameters trails and areas in use today must be placed under the protection of the transportation zone concept. If not a future Superintendent will certainly close out the use of ORV's. This is pointed out in the Land Protection Plan on page 51. The enhancement of natural resources provides more active management of such recreational uses as hunting and off-road vehicles. This is a positive way of adding these items must be removed or drastically reduced to produce a natural area. The 4000 acres with the exception of a few acres for the NPS, is declared a natural area.

We find it interesting that a few years ago Mr. Freet, BSNP Resource Manager, sent us a letter stating that the area between the Alley and Tamiami trail would never be on a trails system. This was because the area was too big and it would be impossible to monitor. Knowing that the BSNP has not been given the money needed to manage the area as desired by Superintendent Fagergren today it is our opinion that the NPS will declare the use of ORV's illegal. This will be because of two reasons: 1) there is not enough money to manage the units and 2) the use of these items is causing significant irreparable resource damage. Thus while we can support the concept of trails and areas for ORV use we find that the ulterior motive of the NPS causes us much concern.

We are also concerned that these trail and areas systems will be so limited that use of the area will be excessively restricted. However if the Service works with the interested sportsmen as they did in develop the Bear Island trail system we believe a good program can be developed.

5 Mr. Freet also told us that the designation of trails would lead to the need to register for use of a trail. We are extremely opposed to such an idea because there is no need for such a registration that is unless the Service's desire is to support us to keep ORV use at such a low level of use that all signs of an ORV traveling through and area disappear every year.

6 Mr. Freet also stated the Service has to be cautious not to over regulate an area like the Big Cypress National Preserve. It is our opinion the Service will be over regulating the area when it enacts much of their General Management Plan desires.

The direction of the NPS's management scheme is clear, again on page 5 of the Land Protection Plan (LPP). The NPS states "... directives which allow specific uses to continue when not in conflict with other purposes of the Preserve." It is obvious that in the minds of NPS personnel hunting, camps, cabins, inholdings and ORV's are not

4. The special use zone/transportation subzone applies to major roads maintained by the state of Florida and local counties. ORV trails, like hiking trails, are considered to be part of the natural environment zone because they provide recreational access to the preserve backcountry.

It is beyond the scope of the GMP to specify what trails or areas would be designated for visitor use. Nonetheless, approximate ORV trail mileages to be maintained in each unit are given in the proposed action to indicate the anticipated extent of the ORV trail system. More detailed information on ORV trail management would be contained in an ORV management action plan, which would be developed after the GMP has been approved. As cited in the GMP, participation by sportsmen and others knowledgeable about the Big Cypress would be sought in the development of the action plan, just as it was in the development of the temporary ORV plan for the Bear Island unit.

5. Registration for ORV trail use is not proposed; however, an annual permit for the operation of ORVs would continue to be required. It is not the intent to limit ORV use to the recovery levels suggested by the comment.

6. Under PL 93-440 improved properties (as specifically defined in that legislation) would be permitted to remain so long as each property did not interfere with the purpose of the preserve. There has been no blanket determination that all improved properties are a threat to resources, and there is no intent to remove any improved properties except where specific resource conflicts have been identified and documented.

acceptable and have been placed in a subordinate position for desirable activities to be permitted in the BOMP.

On page 30 of the EIS it is stated that the land must not constitute a threat to the preserve's resources. Exempt inholdings is being discussed. Yet in the LPP on page 10 states these inholdings have been determined to be "incompatible with the natural and cultural resource protection and its related management actions". Thus there is a severe discrepancy of how the NPS plans to handle exempt inholdings. In the EIS they say they can remain as long as they are not a detriment while in the LPP the NPS has already determined them to be a detriment. As you can see there is great concern about the status and future treatment of these inholdings.

In the EIS on page 42 at the bottom: "When dogs are used in this habitat, deer can be pushed into high water for illegal taking (killing of swimming deer is illegal). Prohibiting dogs would reduce this illegal take of deer and help increase the deer population in an area adjacent to a known panther population in Everglades National Park. There are several problems with this misrepresentation of the facts. 1) The water in the BOMP is not generally deep enough to require a deer to swim and when it is the hunter does not have access to the area that allows visibility to shot. Further, deer run to the water to lose dogs. This is a standard evasive technique used by deer when dogs are allowed and it works. 2) The NPS claims the trader to believe the Everglades National Park (ENP) Shark River Slough Area is panther habitat. It is not and in the NPS's latest panther document they state they were surprised to learn that a panther had crossed and returned through this Slough. It was previously thought by the NPS that the Slough was too deep for panthers to cross. Further the EIS does not tell the reader that the panthers in ENP live on the extreme western side of the ENP unit, which is many miles from the Slough. It is additionally with the home range of a panther being as much as 200 square miles it is hardly possible. And the US Fish & Wildlife Service has not declared any part of the BOMP as critical habitat, to say a panther will be negatively influenced by the use of dogs during the short dog hunting season. To stress the mobility of the Florida Panther, the NPS collared a panther (cougar) in the Stair Step Unit by told us this cougar moves to Henry County, almost 50 miles to the north. Mind you this panther traveled when there was no hunting season but during a time when so called "natural" movement would exist. Thus our actions as hunters in the BOMP have little or no effect on this species.

On page 43 of the EIS night hunting of raccoon is addressed. They NPS is concerned about the possibility of deer poaching. It is our strong opinion that the NPS should provide enough law enforcement personnel to adequately protect the resource and stop poaching. This philosophy of closure to activities by legal users because of the possibility of illegal activities is a negative management policy and will not stop the poacher. It will also not encourage the legal user to work with enforcement people to help stop illegal activities when and if they occur.

On page 43 Froding, it is interesting to note that the amendment passed by Congress known as Senate Bill 90 states trapping is a legal

7. See response 5, U.S. Fish and Wildlife Service. The text has been modified to reflect the fact that the primary motivation for restricting the use of dogs is the disturbance to wildlife rather than the potential for illegal activity.

8. Page 43 of the draft GMP/EIS explains the requirements for allowing frogging in the preserve. It is not anticipated that lack of funding would preclude the promulgation of special regulations.

9. The text has been modified to more accurately reflect the use of differing tire sizes.

page 5

activity that is to be provided for. The FIS states that this activity is only allowed once written determination is done showing frogging is not detrimental to other park wildlife or the reproductive potential of frogs and has no adverse effect on the ecosystem would occur. We ask when will Congress fund such a study? NEVER. This Public Law 900-101 would not be followed. We believe a reasonable quantity of frogs should be allowed to be harvested and that the Service should work with the sportsmen and State of Florida to establish this harvest level. Some will say that is like throwing the sheep to wolves. The frogger like to the hunter, of today is not interested in eliminating the species they enjoy harvesting therefore they will acknowledge reasonable regulations developed in the best interest of all.

We believe a recreational harvest of crayfish should be allowed. Crayfish should also be legal for fishing bait. Again these activities were in practice at the passage of the enabling act when there was to be no reduction in use.

In these two simple cases the problem of having the NPS given jurisdiction of the BGNP are illustrated. The NPS is naturally against any active consumptive activity. It is interesting to note that for 60 or more years modern man has taken frogs for personal and commercial use in the BGNP unit and there are plenty of frogs today. The dynamics of the BGNP ecological system prohibit over harvesting of frogs. This is because of the hydrologic, geologic and vegetative relations which stop man from taking too many frogs. Of course the NPS is not interested in realizing that before they came on board these activities were going on and would like the public and Congress to think that they only started after the enabling act was signed. We find the management plan for frogs unacceptable. We would consider as acceptable a season and nightly harvest limits for personal consumption. In short the frog should be considered as a game animal and managed as such.

On page 209 a very bias-leading and untrue statement is made concerning tires used on swamp buggies. This statement is made indicating airplane tires and tractor tires in a manner which indicates the tractor tire is always a skinny tire there by causing significant soil disturbance. In reality the tractor tire, as all tires on swamp buggies, meet the NPS established regulations of a minimum of 4 inches on the ground, not measuring the contact area only but the tire itself when normal settling is considered for that tire. Additionally many tractor tires are actually wider than the "balloon" tire. What the NPS has attempted to do since the study on ORV's was started is to develop a study designed to create an illusion that tractor fired buggies are the most damaging style of rubber tire buggy. If this premise is accepted then the Superintendent can enact the Executive Orders dealing with such matters. This is because most buggies have tractor tires on them. The reason for this is the size of airplane tires once used by sportsmen to build their buggies is no longer available to the public. Additionally to make these smooth airplane tires work properly chains of different design were needed. The Avcoport research was designed to create this illusion and unless one is fully informed with the testing procedures they would not understand how the stated statistics were developed.

10

On page 210, the existing ORV trails map is found. This map is highly inaccurate. For example:

1. On I-75 there is a ORV trail going south from about the 31 mile marker which is labeled as "active or former oil roads used by ORVs". In reality this trail went from Ft. Myers to Immokalee to Ronoco Station on US 41. In the late 1970's, Alligator Alley was built and cut the trail in half. In the late 1970's Exxon built an oil road 6 miles back into the BGNP on the buggy road. The ORV user continued to use their trail once the oil road was removed. This trail is also a good example of where ORVs have to use long segments of oil roads when the oil company builds their road on an ORV road (trail). If the recreationalist is not allowed to use long segments of roads like the 31 mile marker (Burdines Trail) they cannot access the interior of the BGNP. It is interesting that both the S.E. Regional Director and Superintendent have been on this segment of the Burdines Trail and know it's history. Yet the FIS is still presented in a manner which will support the NPS's desire not to allow ORV access at this location.
2. This map is also inaccurate because they show trail segments that do not connect to other trails. This is not possible.
3. It also shows that some areas have no trails. This is not so. The aerial photography does not pick up trails in these areas because of the vegetation. The absence of trails in these areas shows that ORVs do not significantly permanently damage the BGNP resources.

ORV ACCESS AND ACCESS FOR ALL USERS

11

On page 46 the NPS would not propose any ORV access from I-75 into the BGNP. There is only one main buggy trail that is in the current BGNP boundary. This trail was in use in the late 1920's and crosses I-75 at about mile post 31. It was in use before the BGNP was created and has been in use ever since the BGNP act was passed. This is another example of how the NPS is not living up to the no reduction in use promised Congress and the people. The NPS thinks the area will be adversely affected by the use of ORVs at this point. If this is true they will eventually have the same philosophy every where ORVs enter the BGNP. They do not acknowledge the fact that there is already some disturbance to the area and that this is not significant. If it was significant the NPS would have stopped it. The NPS expresses the idea that I-75 will encourage the use of ORVs because it is high speed transportation corridor. However, they do not tell the reader that the current transportation corridor is a high speed transportation corridor. They do not tell the reader that construction of I-75 and plans developed by the State of Florida will discourage the use of ORVs because they cannot access north and south of the right of way at all access points without traveling approximately 20 miles more to turn around. Thus the ORV user going south at mile marker 31 would have to travel further than they presently do on each trip to the BGNP. The NPS has attempted to convince people that ORVs leave any place they like from S.R. 84. Actually this is true but in reality it is not. There are three main access points: 31 mile marker, 38 mile marker and 48.5 mile marker (which was at the 45 mile marker until Laver-25 Interceptor canal was built). While there are a few other minor trails that one can use to leave S.R. 84 they all go back to one of these major trails which were in use in the late 1920's or earlier. Therefore the position presented by the NPS that designating these

10. The Existing ORV Trails map, as noted in the text, is presented as a rough estimate of current ORV trails. The limits of this estimate are cited in the plan.

11. The general management of the lands added to the preserve in 1988 will be covered by a future planning effort. The trend in ORV trail management for the addition was addressed in the I-75 Recreational Access Plan/Environmental Assessment (NPS 1990b) and associated "Finding of No Significant Impact" (NPS 1991b).

north south entry points for ORV's from I-75 would do irreparable damage to the SCNP is not true.

We are supporting ORV, hiking, boating access at the 31 mile marker, 36 mile marker, 48.5 mile marker. With no turn around at mile marker 21 and 48.5. With turn around capabilities at S.R. 29 and mile marker 36. Once again these are the traditional sites that were in use before the enabling act passed.

As mentioned before we are very concerned with the criteria on page 46 used to determine which trail segments or areas should be closed to ORVs. Today the NPS has been unable to tell us if there are any areas or trail segments that fall under these criteria so we have no idea what the NPS is going to consider as ponding, erosion, adverse soil, vegetation, wildlife, wildlife habitat affects, multiple trails through sloughs, strands or other important resource areas; trails that threaten cultural resources or other chronic resource problems. We will say that the NPS has been very cooperative about working with the local sportsmen on the development of the trail system in the Bear Island Unit. However with a change in administration this could change and the above criteria could be used by current administration or future to close the SCNP. We believe the interpretation of these criteria will be on the excessive recreational side because the Long Term ORV Study done by National Audubon, which is not known as ORV supporters, asked the question is the disturbance done by ORVs supposed to recover in one year or more. It is our belief that the NPS will select a one year recovery rate as being what is acceptable ORV use. Thus the area could be closed.

Who knows what is meant by "other chronic resource problems". This can be anything so desired by the NPS. This criteria can be used to remove sportsmen at any time.

We strongly disagree with the closure of Deep Lake to ORVs. The Loop Road Unit is all that is needed for use as a study area to compare with other areas used by ORVs. We support a loop trail which would leave Turner River Grade Road in the northern 1/3 and proceed to the twin-lakes by I-75. These lakes should be designated camp grounds. The trail would then travel to the southern portion of the unit to another designated camp ground and then back to the original entry point. This would not harm the Panther, allow for the disbursement of hunters and others, allow for people to get away from Turner River Road and enjoy camping in the back country, allow for the removal of game harvested without spoiling and create an excellent area for all seasons. The reduction on hunting pressure on this unit will be reached by continuing the unit as an archery only area. We also believe the area should allow archery hunting on it during the archery season, muzzle loading and general gun season on the Turner River Unit. This type of hunting is extremely difficult and not very productive thus a true archery hunter can enjoy a long time in the woods in pursuit of game.

Access to the entire area is one of the biggest problem we find in the plan. There were many places we could enter the area before the enabling act passed. This has gradually changed as the NPS has burned and destroyed places the public once used to access the back country. The Service reduction of access has taken place in all units of the

12. The criteria are intended to guide the decisions by the superintendent for managing trail segments. As stated in the final GMP/EIS, and as practiced by the preserve staff, interested organizations and individuals would be consulted before any major trail closures. The text has been modified to eliminate the reference to "chronic resource problems."

13. Alternative A in the final GMP/EIS contains a similar action to this recommendation. ORV access to the Deep Lake unit is not proposed.

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BNP. The idea that we can continue to park our street vehicle along side of U.S. 41 to access the area or for that fact any area is misleading. Last year the Florida Highway Patrol, for the first time in history, started telling people they could not park along side the roads. This in the mind of some, was an action prompted by the NPS to discourage people from using the area.

The following is what we consider to be minimum in the way of access for all units:

Bear Island

Petocchi Grade car/trailer 150 NUMBER OF HUNTERS 250
 *Total 150

Deep Lake

at approximately 5 miles south of I-75 there is an old buggy trail there should be a 75 car-trailer site.
 **Total 75 NUMBER OF HUNTERS 200

Turner River

Monument Lake 75 car/trailer
 Georges 75 car/trailer
 Burns Lake 75 car/trailer
 Concho Billy Trail 75 car/trailer
 Alpraine Prairie (east side of Turner River road about 10 miles south of I-75 75 car/trailer
 Windmill or East Crossing Trail (this is the common name for a site about 5 miles south of I-75 on Turner River Road), there should be a site built for 50 car/trailers.

I-75 31 mile marker north and south should have 250 car/trailer sites
 ***Total 400 NUMBER OF HUNTERS 500

Corn Dance

Pattens 150 car/trailer
 Jetport 150 car/trailer
 38 mile marker north and south should have 250 car/trailer sites
 48 mile marker (I-28 Interceptor) should have 250 car/trailer sites
 ***Total 800 NUMBER OF HUNTERS 300

Loop Road

Old oil well pat at Pincrest 50 car/trailer
 Old Pincrest Restaurant 50 car/trailer
 The Hump (north and south) 30 car/trailer
 Paces Dike (north and south) 75 car/trailer
 Old building pads all the way around the Loop should be used.

14. The final GMP/EIS has been modified to reflect the need for additional parking. The National Park Service does not control road shoulder parking along US 41. However, the Park Service will work with the state to designate appropriate ORV crossing areas along that route.

15. See response 11 above.

16. The proposed action has been revised to include Dayhoff Slough and Gum Slough as the southern units for wheeled vehicles except for a designated trail in the Lostman Pines area.

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***Total: 205 NUMBER OF HUNTERS 250

Stairsteps

County line for airboats 75 car/trailer
 Sig Walker Landing 75 car/trailer
 Pinecast Tunnel Trail for airboats 75 car/trailer
 Mitchell's Red Bird Lane 150 car/trailer
 Sullivan's Old Bdg 50 car/trailer
 Crucked Culvert 30 car/trailer
 ****Total 465 NUMBER OF HUNTERS 1,000
 GRAND TOTAL, NUMBER OF ORVS 2110
 GRAND TOTAL, NUMBER OF HUNTERS 2500 based on current 1st nine day quota permits.

- * Parking is also provided at the camping sites.
 - ** Access to the Corn Dance Unit can also be obtained from those sites for the Turner River Unit.
 - *** Access to the Corn Dance and Turner River Unit is provided by these sites.
 - **** Access from these sites can accommodate access to both the Stairstep and Loop Road Units thus the numbers are a bit misleading
- We support all the proposed access sites to the Stairstep and Turner River Units that are west of Monroe Station. We have expressed our concerns about the potential closure of these sites.
- We support the continued use of the bridge across from the Everglades Conservation Sportsmen's Club on Loop Road that allows access to the Stairstep Unit.

We feel the need to remind all readers that access is for ALL users thus the need for our projected level of access is critical.

While this EIS is addressing the current Big Cypress National Preserve the access needed for this area and the addition is inseparable.

We are also very concerned that the NPS will not work with Inholders to allow them meaningful input to the trails and areas system. It is important that this be done so as to prevent, as much as possible, only one trail leading to an inholding. This could create some user conflicts that would be avoided if more than one trail was allowed to inholdings in all units. We understand that there are some cases where this cannot take place and has not in the past but where possible and in existence multiply trails to inholdings should continue.

The Gator Hook Strand in the Stair Step Unit should not be the reservation for swamp buggies. This line should be on the eastern side of the Dayhoff Strand. The soil conditions on the area we suggest is suitable for swamp buggy use and has been used by swamp buggies since before the enactment of the law by swamp buggies. Further when the water drops about the entire area of the Stair Step should open to swamp buggies. The use of airboats should not be

prohibited from any place. The trail system in the Stair Step must contain the numerous "tunnels" in the cypress strands. We have talked to the Superintendent about these tunnels and he has assured us these tunnels will remain open.

We find in the Stair Step Unit the first closure of ORV trails and areas. On page 49 paragraph 5. We find this to be a good example of the approach and strategy to be used by future Superintendents to close ORVs from the entire BCNP. There are no places that need to be closed.

We also find on page 49 the idea of stabilizing trails or segments. This is the worst thing the NPS can do. By doing this the challenge of getting to an area is gone. Further, the NPS has removed a barrier which stopped many people without properly assigned equipment from getting by. Thus the interior will be opened to many people who previously could not get there. The only time the NPS should stabilize or improve an ORV trail is when the trail meets a canal along one of the roads. The canal acts as a drainage enhancer and as such should be impaled by fill to prevent this from occurring. Otherwise there should not be improvements to any trail for any reason. For years we have built swamp bridges and airports to get us to the areas we use without doing any irreparable damage to the soil, plants or hydrology of the area.

CAMPING

The development of sites at various locations on the perimeter of the BCNP is a good idea except these sites are being over developed. It is a good idea to build the sewage disposal stations. It is not necessary for the NPS to spend the money to establish potable water stations. For years sportsmen have brought their own water. The practice of providing ones own water should continue. If this is not the case the camp grounds will be filled with winter tourist who are in mobile self-contained campers. These people live in Florida for four to five months. While we do not mind their use of these front country camp sites we do not believe the intention of Congress was to create wintering camp grounds for out of states. The testimony given Congress supports our position. The Big Cypress National Preserve was not to be a unit of the Park Service that is developed and should not require large sums of tax dollars to create visitor improvements.

The following areas should have front country sites developed with sewage disposal stations of some type but nothing else:

Bear Island:
100 sites at the front main camp grounds with numerous other disbursed through out the unit, including two, each should be able to provide for ten campers in the southwest corner. Non should have potable water provided.

Deep Lake:
There should be 75 camp sites provide in this unit, 50 at the twin lakes on the north end and 25 provided further to the south.

Turner River Unit:
Burns lake _____ 100 sites

17. Selective stabilization of trails is proposed to mitigate intensive resource damage, not to encourage heavy public use or to remove the challenge of ORV driving. These considerations would be addressed in an ORV management plan.

18. There are time limits for staying at NPS campsites, and these camping areas would not be subject to long-term occupation by winter tourists.

RESPONSES

19. The superintendent testified that trespass camp owners, as well as other visitors, would continue to have the opportunity to camp in the preserve backcountry. It was not stated that former trespass camp owners could necessarily use their original building sites. Some former building sites may be available for camping. Many, however, would not be available for camping in order to return the site to a natural condition.

20. Congress stated in 1970

that [all national park areas], though distinct in character, are united through their interrelated purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people. (16 USC 1a-1)

In 1978 Congress amended this statement and added the following:

The authorization of activities shall be construed, and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. (16 USC 1a-1)

While certain uses not traditionally associated with units of the national park system are directly and specifically provided for in the establishing legislation for Big Cypress National Preserve (e.g., hunting, ORV use, oil and gas development), the preserve is otherwise to be managed consistently with other units of the national park system.

21. The proposed action has been revised to delete a designated canoe trail along the Tamiami Canal.

COMMENTS

page 11

- Monument Lake 100 sites
- Cancho Billy 50 sites
- Copeland or Airplane 50 sites
- East Crossing 50 sites
- Corn Dance Unit:
- Fifty mile bend 50 sites
- Loop Road Unit:
- Red bird Land 100 sites
- Stair Step Unit:
- Dona drive 25 sites
- Red bird lane 100 sites

The Superintendent testified in court that trespass camp owners would be able to use the sites. Their buildings were located on once these buildings were removed. These buildings were and the public could pitch set wall tents on these sites. This being presented in court we demand that all such sites, if the DOJ decides to permit the NPS to remove the buildings, be accessible by spot team to pitch a tent on considering the Superintendent's testimony in court. It appears strange that the BIP would indicate these building sites would be established by nature. Nature can only re-claim them if the NPS does not allow a trail to go to them and allow people to camp on the sites. Thus the should question either the testimony made before a judge or the position of the BIP.

As is usually the case with the Big Cypress National Preserve new situations occur daily. There appears to be a case pending in which a camper cut palm fronds from some palmetto plants to make a door mat in front of his tent. This is a common practice in the area and does not harm the plants. It is important to remember that the Service will burn and plans on burn millions of such plants yearly. Thus removing a few leaves will not harm the individual plant or resource. In discussion with local NPS personnel we have learn that a camper cannot clear a site of brush to erect a camp. In south Florida where there is grass there is water or mud. Thus the Service has effectively stopped back country camping because unless a site is used regularly there will new bushes growing on the site. We are not supporting the cutting of standing trees, live or dead. We are expressing the inability of the Service to determine anything but white or black. There appears to be no grey area in the law or regulations to the Service. Thus the regulations concerning camping must be written so that people can camp in tents without fear of violating a regulation concerning the cutting of plants. Certainly what we are talking about will not harm any resource.

Remember while the Big Cypress National Preserve is to managed as a unit of the National Park Service it was to be treated differently than other units of the Service. Consistency with NPS policy was not a key item when management of this unit was developed.

CANOEING

The canoe trail along US 41 is acceptable but not practical. The canal is very close to a high speed transportation corridor. The canal is usually choked as are most water bodies in South Florida, with water weeds that would make canoe use almost impossible in the canal.

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HIKING

The NPS proposes to move the Florida Hiking Trail off the ORV trails. We have for years explained that this trail was developed by an ORV owner driving along with a hiker painting trees to mark a hiking trail. This was reported to us by Dr. Wells who drove the swamp buggy. We have met with Florida Trail Hiking trail leaders. These elderly people from up-North stated they liked to have the swamp buggies us their hiking trails because they could not keep the vegetation trimmed from the trail. This is due to year long growing season and extremely rapid spring and summer growing seasons. The NPS has stated they are going to work with the Florida Trail Association. We recommend that the NPS work with both the Association and the Everglades Co-ordinating Council of the Florida Wildlife Federation to create a trail system for hikers that will be acceptable to all users.

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PICNICKING

We find that this recommendation is acceptable as presented.

BACKCOUNTRY SHELTERS

We find it unacceptable that the NPS has determined there are various enforcement and environmental reasons to destroy "aquater/trespass camps that are protected under the enabling act as traditional recreational activities" and then to provide the same type of structures for the general public to use. Further these NPS structures will require continual expenditures of tax dollars to maintain, handle sewage and trash. We find these structures unacceptable and not what Congress intended when the enabling act passed.

23

CONCESSIONAIRE SERVICES

ORV STORAGE/AND SERVICES

When the enabling bill was passed there were many places we could store ORVs in the BCNP. But today the NPS has managed to reduce these storage areas to a few locations. Thus the use of the area has been reduced, contrary to the commitment given Congress. We support ORV storage areas at:

Place	type	amount
Patton's Place	c/t	100
Monroe Station	c/t	250
Ochopee	c/t	100
Sunshine Shooting Club	c/t	200
Pine Crest	c/t	100
	car/trailer	750

ORV RENTALS

The concept of renting ORVs to people who are not experienced in the use of this equipment is extremely dangerous. There are many aspects of operating a swamp buggy, air boat or AIC that are not apparent to the non-experienced person. ORV rental should not be allowed at anytime. The concessionaire should develop Guide services for tourists to be taken on ORV rides into the BCNP. This would permit the tourist

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22. As part of developing any trail system, the National Park Service will work with interested members of the public.

23. As cited in the draft GMP/EIS, the National Park Service is under court order to remove all trespass camps from the preserve. Proposed backcountry shelters would provide for public access and camping in areas that are less environmentally sensitive than the locations of many trespass camps.

24. Rental of ORVs without a guide is no longer proposed.

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to not only tour the area but to receive information about the dynamics of the system.

GUIDES

Guides should be encouraged to operate in the Unit for sightseeing, fishing and hunting. They should be able to take people into the interior for extended camping trips where the people could stay without a guide or with a guide.

VISUAL CORRIDORS

The roads and their corridors should be maintained to create a pleasing view of the BCNP. There should be a low frequency radio system to explain the sights and uses of the BCNP. Where ORVs and sportsmen access the BCNP these locations could be pointed out and the significant role the sportsmen played in creating the BCNP and the value of such activities to the area presented.

While we are talking about this topic we will bring in another one and that is gator jams. Like bear jams in Yellowstone tourist who have never seen an alligator stop their car in the middle of U.S. 41, throw open the door, jump out to see the gators. This creates extremely dangerous conditions on U.S. 41, which is a relatively narrow road with a steel guard rail on the canal side. There is the potential of a very serious automobile accident due to these tourist's actions.

OUTLYING RANGER STATIONS

We encourage the NPS to develop these and other locations to provide ranger quarters. However, we must STRESS that the rangers and all NPS employees who work in the BCNP must not have the standard NPS training and philosophy about NPS units. These people must not be anti-hunters and people with a philosophy that man does not belong in or on lands under NPS jurisdiction. They must fully understand the complex legislation that created the BCNP and need to honor those commitments to the public and CONGRESS.

INTERPRETIVE CENTERS

These proposals are acceptable as long as they do not interfere with the traditional recreation values of the area. These centers and locations must NOT be used to close down the use of ORVs and hunting activities.

INTERPRETIVE TRAILS

There is no need to develop a 1-mile boardwalk in the Bear Island Unit. To start with not many tourists are going to travel 20 miles on a dirt road that has wash-boards and holes in it to walk in a mosquito ridden oak hammock and swamp boardwalk. Further this expenditure will require continual maintenance because of rot, termites, fire and weathering. Additionally it is not a traditional activity--walking on a boardwalk. If the NPS wants to create a ground level trail with minimum improvements in the area this would be acceptable. Tourist should see, experience and enjoy the Big Cypress National Preserve as we do--get their feet wet and muddy!

25. The formerly proposed boardwalk in the East Hinson Marsh has been dropped.

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REHABILITATION PROJECTS

26. The NPS must remove all the trash they own. This trash is a by product of their acquisition of property in the area. The NPS has had, in most cases, cleaned up any debris left behind by the previous land owner than the BCNP has the appearance of being a dumping ground when in reality it is only poor management practices by the NPS.

EXOTIC SPECIES

PLANTS

27. We find it unacceptable that the NPS plans to spend only \$380,000 to remove and control aggressive exotic plants. The NPS should work with sportsmen and others to remove or kill these plants. The NPS should recruit and train all their personnel on how to poison Melaleuca and Brazilian Pepper. These plants are spreading all over the BCNP as they are spread by birds. It is going to be a never ending task of sportsmen to stop their spread. Many of our members, while hunting in deep swamps, streams and hammocks have been finding and pulling up these plants. Without this continual annual vigilance these plants would be able to obtain a dominating foothold to many more areas.

ANIMALS

28. We find it almost unbelievable that the NPS could testify before Congress that the feral hog (wild hog) is an important game species and thus is one of the reasons the Big Cypress MUST be saved and today they want to exterminate the same wild hog. We believe the hog should be NATURALIZED under NPS policy because of the testimony to Congress and because of the animals importance to the panther. Recent work on lands north of the BCNP where 85% of all the panthers in Florida live, has shown that given the choice a panther will take a hog before it takes a deer. Thus the wild hog is the preferred food and not the food of necessity to survive because the NPS wants people to believe there are not enough deer for the panther.

ORV USE

There is a problem with the specifications an ORV has to meet. There is no need to have a spark arrester on an ORV in the BCNP. This is because the habitat is too wet to allow a fire to start from a spark. When the area is excessively dry which could allow a fire to easily start the NPS closes the area. At the time of closure the only ORVs that would need spark arrestors would be inholders, as they go to and from their back country property, and official vehicles.

We do agree with the position on surface water flow effects of ORV use in the BCNP. There is no significant effect by ORVs on water flows. There is, as already pointed out, enhanced drainage at isolated places by borrow canals along road ways.

We believe that the NPS should allow 30 tracks south of S.R. 41. These tracks should have the following dimensions as their maximum size.

26. Recovery of waste materials from former campsites is the legal responsibility of the former camp owners. However, the National Park Service is now undertaking a cleanup program.

27. The National Park Service welcomes volunteer assistance in the exotic plant control program.

28. Although feral hogs are identified as an exotic species in the proposed action, the plan also recognizes their potential importance to the Florida panther as a prey species.

(We are with holding these dimensions and will forward them as quickly as possible. This is due to recent communications with the Superintendent.)

We are also concerned that the with the Superintendents new list of placing a cap on the number of ORV permits issued for the BCP the day will come when one type or style of ORV has all the 2,500 permits. Thus the other ORV users will not be able to have reasonable access to the BCP either as a hunter or non-hunter. For example if 2,500 airboats obtained these permits the only area that would allow reasonable access would be the Stairstep Unit and then only when the water was up. Another example would be if 2,500 street legal 4x4's held all the permits. This too would cause other use problems. It is our opinion that the Superintendent should come with an equitable technique to distribute these permits.

While at this (November 13, 1989) writing there are 304 airboats registered, 333 all-terrain cycles (ATC's), 237 4x4 street legal's and 527 swamp buggies for a total of 1501 there is concern by all this situation could change. Going back to the base line study done by National Audubon with the exception of one style of ORV, the user level has remained fairly constant and perhaps has even been reduced by some other users.

We believe that the 4x4 street legal vehicle using Bear Island unit should not be required to have an ORV permit to use Parochy Grads and and of the oil roads in that unit. If this equipment is used off these roads they should have an ORV permit. We understand the need for the DPS to require only 4x4's have access to these routes, even though much of the time a two wheel drive vehicle will work fine. It is not necessary to require an ORV permit to ride on a graded rock road. By requiring an ORV permit for those 4x4 street legal's that use only these routes ORV permits are being removed from other types of ORV equipment. If the Park Service considers some sort of permit needed for street legal 4x4's using these routes then they should develop a special permit. This special permit would be over and above the 2,500 ORV permits set aside for recreational use of the Preserve.

This passed year, 1989, found another hurdle for ORV owners to over come. The Superintendent required that all ORV permit renewals had to be weighed on a certified scale or taken to the Oasis Ranger Station again. This equipment was to be weighed during initial issuance of the ORV permit when the equipment had to be taken to the Oasis Ranger Station. The trip to the Oasis Ranger Station in many cases is a full days travel, 250 miles or more, from the owners home. Additionally the Superintendent produced an ORV permit application that states the owner will have to bring the equipment in every three years. We find that these types of regulations are more harassment to the owner than benefit to the Service. It is our suggestion that the Service continue the inspection, weighing and photographing of the equipment on the initial issuance of the ORV permit, from then on when the owner renews the permit a picture taken from the front left angle of the ORV with the owner standing by the ORV be sent with the renewal fee and application. This will assure the Service no significant change has taken place in the structure of the equipment; provide a pictorial record for stolen vehicles and owner identification of the equipment.

29. The proposed action has been revised to limit the total number of annual ORV permits to 2,000. This permit level was developed to stabilize use at levels typical of what has taken place in recent years. If there is a problem in distributing ORV permits, a distribution system will be devised to ensure equitable access and resource protection.

30. Preserve regulations require a photograph and certified weight of the vehicle the first-time an ORV permit is issued, or if a vehicle has been substantially altered. There is no current or proposed policy to require reweighing or rephotographing vehicles every three years.

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SURFACE WATER PROBLEMS

We do believe that additional culverts need to be added through out the Bear Island Road system.

On page 244 the NPS speaks of the effects of ORVs, dogs and hunting on deer. It has been our experience that ORVs and equipment do not have a negative effect on deer. There are numerous places in the USA that have deer feeding beside high speed transportation corridors and airports. If there is any disturbance caused deer by swamp boggies it is only temporary. Because unlike the automobile the swamp boggie is a slow moving vehicle which operates at slightly above an idle speed. This slow methodical sound does not significantly disturb any wildlife. Much as the farmer's farm tractor does not bother deer. When deer and hogs are disturbed they merely move to the closest thicket. In the Bear wildlife is only a jump or two from an upland or swamp thicket.

The use of dogs in the traditional Southern manner, as reported by Marchinton et al. (1977) do not significantly increase deer harvest or adversely affect deer behavior or reproduction. The vast roadless areas with dense vegetation, both up-land and swamp, prohibit man's rapid pursuit of deer. It is not like in some other places where dogs are used that have dirt or hard roads which permit rapid pursuit of deer and or hogs, for that matter.

Tree stand hunters have frequently observed deer use water to conceal their scent. Many times the deer have merely jumped to the side and waded in the shallow water away from their previous route to watch the pursuing dogs race by.

FIRE MANAGEMENT

We believe that the NPS must establish a policy and practice to provide for a patch work of burning for wildlife, all wildlife benefits by a such a fire management practice, and leave the general policy of burning for fuel control. Naturally there will be fire suppression zones and fuel control projects in those areas. We encourage the NPS to burn for fuel reduction on a three to five year rotation. We encourage the NPS to establish places that should not burn to allow for session to a hammock habitat. Further large hammocks, except under the most unusual circumstances, should not burn.

PANTHER

It is our strong opinion that the NPS and certain groups have and are attempting to use the panther to remove sportsmen and convert the Big Cypress National Preserve into the Big Cypress National Park. While the FIS is addressing only the Preserve it must look beyond it's boundaries because of the territorial requirements of the panther. We have received correspondence from the U.S. Fish & Wildlife Service which state the panther should be able to survive in the land north of the swamp when trees or private lands become citrus lands. This is because the panther will be able to live in the swales of the citrus groves. We believe that with the panther able to live in these farm areas with pumps, trucks, tractors, sprays and many people the vast

31. See response 5, U.S. Fish and Wildlife Service.

32. The U.S. Fish and Wildlife Service and the Florida Panther Interagency Committee have expressed concern over the conversion of unimproved pasture to citrus orchards as posing a threat to panther habitat (USFWS 1987). This research also indicates that the Florida panther is found in the wild in extremely low numbers and is rarely found in close association with humans.

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BCNP with the current level of use, or for that matter the level of use in 1974, certainly cannot threaten the panther. One would have to consider if they believed all the propaganda of the NPS. It is remarkable that the panther lives in the BCNP because of the heavy use of the area in the 1960's and 1970's. However, as is often the case, common sense examples and realities is not considered by the NPS and their supporters.

The habitat of the BCNP is not harmed in any way by sportmen and their 1974 uses of the area. It is pointed out in many places in the FIS that no change in environmental conditions are expected by the proposed actions of the FIS. Thus, if there is to be no changes in the environment because of what we are and have been doing our activities must be acceptable and not harmful to the resources.

We find it interesting that the NPS believes it is necessary to reduce human activity in the area while in other states of the Union the panther (cougar) is living in close association with humans, i.e. California. We also find that more and more panthers are living in other parts of Florida where they have much closer contact with men than in the BCNP. Also before researchers started looking in these areas in earnest sportmen told the experts these cats lived in these areas. Today the NPS has made the panther a liability to many and these people do not want the cat around because of the way the NPS has used it in the Cypress.

We find the need for changes in hunting season and quotas totally unnecessary. There is no need for a full season quota. After the first nine days of permit required hunting the use of the area drastically declines. The NPS would like people to believe that one only has to step off the road and they will harvest deer or hogs. Not there is a lack of deer and hogs the activity of hunting is more difficult than in other areas of the National. In the BCNP there is dense vegetation that does not lose its foliage, flat terrain and with a high degree of difficulty to traverse it is extremely difficult to see deer and hogs, let alone harvest. There are few people who hunt after the 1st nine days of dog hunting. If this became a problem protect the resources as they in the BCNP and other areas of Florida; as they are charged to do by the State Constitution. We encourage the involved agencies to develop another means of absolute control on the harvest count.

The total number of days of hunting does not need to be reduced because there are plenty of days out of hunting and times during hunting season for the non-hunter to use the BCNP. This is an attempt of the NPS to develop an artificial non-hunting demand on the area to help them continue reducing hunting in the future. It appears the NPS is trying to develop the BCNP into an extension of Everglades National Park to satisfy the Service's desire to remove sportmen from lands under their jurisdiction. Please see the attached sheet on NPS's purchase of duck blinds to better understand the complex problem of allowing the NPS to manage any area that allows hunting.

We have already mentioned the effects of dog hunting on deer in the area and support a 20 day dog hunting season on all units but the Loop Road and Bear Island areas. We also think that all units and hunters

33. The impacts of continuing the recreational use of tracked vehicles in the preserve was assessed in the status quo alternative and in alternative A. The ORV studies were conducted by the National Audubon Society's Ecosystem Research Unit, under contract with the National Park Service. The methodology and results of the study are scientifically acceptable.

34. See response 23 to this letter.

35. Neither land exchange is proposed in the final GMP/EIS.

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during all seasons should be able to use a slow trail dog on leash to track game not easily found in the dense foliage and swamps of the area.

We welcome a long term comparative study to determine the interrelationship between panther, prey and hunting as long as the NPS does not fund, manage or select the researcher. There must be another agency other than the NPS to take charge of this research for the work to be valid.

We would like to point out that the Service's own team of deer experts determined that there should be two changes in the hunting regulations. If these two changes were made hunting of bucks only could not harm the deer herd in the BCNP. These changes were made by the Florida Game and Fish Commission. Yet the NPS has refused to actively manage habitat in the BCNP to benefit panther prey and other species because it is not "natural."

We are requesting that 30 track vehicles be allowed to use the Stair Step Unit. This is the approximate number of tracks using the area in 1974 when there was to be no reduction in use. The NPS has removed these vehicles by using Executive Orders and a document designed to produce managerial desires. The statement by the Service that these vehicles are the most damaging is misleading. There will always be a most damaging style of vehicle until there are no vehicles or people. The Audubon study was developed so as to show the track vehicle as the most damaging. This was done by testing them in only the poorest soil and in a manner that no sportsmen would use. The researcher used the same trail over and over with a track. This is not how a track is operated. Thus the NPS obtained the results they were looking for.

We are asking that the NPS and DOI reconsider their position on "squatter/trespass camps". During the formation of the enabling act we continually heard that we would be able to camp and go to camp. To us these buildings represented camp. We had no idea that the NPS would consider camp as a soft wall tent only. Thus the term cabin, "squatter" trespass camp was not clearly spelled out as being unacceptable or acceptable traditional recreation activities for the area. It has been shown in the EIS and by other statements from the NPS that these buildings as the ones the NPS wants to build will not create any environmental degradation. Further if the NPS used some foresight they would realize that they are losing a good review source. The NPS has stated that to leave these buildings would allow others to build more such buildings. This is far from the truth. Those who might build such buildings could have done it for 30 years prior to the enabling act and did not. Further any construction of new buildings after November 23, 1977 is not exempt. Thus this traditional recreation activity should be protected for at least the life of the owner building owner.

We are opposed to the exchange of any Big Cypress National Preserve Lands to the Everglades National Park except for such lands needed to facilitate the re-opening of the Stair Step Airboat Trail to the public. This action, we were told by Superintendent Morehead, would give a little more land to Everglades National Park. It would be Superintendent Fagergren told us make good sense because the natural

biological vegetation line would allow people to know when they were in or out of the Big Cypress National Preserve.

It is our understanding that the BNCP has recommended giving all the land south of U.S. 41 to Everglades National Park. We do not support this in any fashion. If Congress had of thought this was needed they would have taken this action in 1974 when the Big Cypress National Preserve was created. Further the BNCP and other non-hunting groups are telling Congress that we, sportsmen, can use our airboats and hunt in the Stair Step Unit. Yet it appears they are already plotting to take these lands from the sportsmen.

The EIS states that the current Wilderness report, that was required within five years of passage of the law, should remain as it is. This is unacceptable because the report states that "at this time no area is suitable for wilderness classification but once the holdings and all resources are identified the subject will be revisited. The area is to be managed so as not to preclude it from wilderness." This finding is contrary to what Congress desired and sought when the Stair Step Unit was created and passed. The EIS should state that the Wilderness report findings should read "no area is acceptable for wilderness classification and while the area is managed for as much as possible when the restraints of the enabling act and amendment are considered, a natural state will never be classified as wilderness."

The manner in which the NPS has and is handling management of the BNCP is a national travesty and has shown people all over the nation that the NPS and DOI cannot be trusted to live up to their agreements made before Congress and the people of the United States of America.

It is being stated by the Superintendent and other NPS staff that they must restrict hunting to provide for the enjoyment of all others. We would like to remind everyone that all others can enjoy the 1.5 million acres of Everglades National Park, Collier Seminole State Park, the Fakahatchee Strand State Preserve and the U.S. Fish and Wildlife Florida Panther Refuge. None of these areas allow hunting. Thus it appears to us that the non-hunting segment of the population has many more acres to enjoy all year long while the hunters have only part of the year to enjoy the BNCP.

It is being stated by the Superintendent and other NPS staff that they have to reduce the hunters use of the area because of a resource problem primarily with the white-tail deer. However, at this very moment we have been told by the NPS researcher and NPS staff that there are plenty of deer in the area. We also need to point out that the NPS's own review panel of experts stated that if two changes were made in the hunting regulations the current level (1987) of hunting could not harm the deer herd. Additionally in 1981 when the State of Florida had to hold a special mercy hunt to reduce the deer herd in the Everglades water management areas this Superintendent stated to two members of the Everglades Coordinating Council that he could not accept any transplanted deer from the Everglades because there was no room for them in the Big Cypress National Preserve. Thus it would appear, based on this statement, that the BNCP had reached it's carrying capacity. Yet the Superintendent wants to reduce hunting under the guise of increasing the deer numbers.

36. The statement contained in the draft GMP/EIS under "Planning Issues and Management Concerns" is accurate. The plan does not propose a modification to the existing wilderness recommendation.

37. Even though reduction in harvest levels would probably have some positive effect on the number of deer in the preserve, habitat improvement through prescribed burning and exotic plant control would probably be more influential. As stated in the final GMP/EIS, the reason for managing hunting is not only to increase the deer herd, but also to provide accurate monitoring and control of hunting, to better avoid conflicts with other user groups, and to reduce human presence in Florida panther habitat.

page 20

All in all we thought the NPS would create a proposal that would be much more restrictive than they have. This is, in our opinion, because there are enough loop holes in the EIS to allow the NPS's Superintendent to remove hunting, fishing, frogging and associated activities when ever desired and to change the enabling act and it's amendment so a Wilderness Park is created by regulation and not law. While the EIS states in many cases that actions being proposed will only effect a few people here and there all these so called minor effects add up to one very big effect. This very big effect is the first one in the complete alterations of the intend of the enabling act and amendments.

The Department of Interior, the National Park Service and Congress made certain deals and commitments to get the Big Cypress enabling act passed and we expect the National Park Service to live up to these deals.

1. Descriptions of plant community types provided in the draft GMP/EIS, as well as in the final GMP/EIS, are intended to give the public a general understanding of the Big Cypress environment and resources. The descriptive sections are not intended to be encyclopedic or exhaustive, and the level of detail provided is considered appropriate to its purpose and within the requirements of the National Environmental Policy Act and its implementing regulations. The function of the GMP is to provide general management direction to prioritize and support future, more detailed management action plans.

Robert W. Simons, Chairman
Public Lands Committee
Florida Defenders of the Environment
1122 S.W. 11th Avenue
Gainesville, Florida 32601

February 26, 1990

Bob Baker, Regional Director
Southeast Regional Office
75 Spring Street, SW
Atlanta, GA 30303

RE : Big Cypress National Preserve Draft Management Plan

Dear Bob:

Several times, I have tried to sit down and write my comments on the Big Cypress draft management plan and impact statement, but other urgent matters have always gotten in the way. Hopefully, it is not too late, now that I have finally gotten around to it.

First of all, let me say that we strongly support the proposed actions in the preferred alternative that would increase prescribed burning, exotic plant eradication efforts, and removal of trespass camps and would reduce the use of OWS's, dog hunting, length of hunting seasons, and total hunting pressure in the Preserve. However, alternative B would be even better.

The first perceived deficiency in the draft has to do with the descriptions and proposed management of the plant communities (biological committee, habitat types) of the preserve. Public land management is largely based on the management of habitats in order to manage habitats and must first know what they are, how they function, what conditions they are in, what species are involved, etc. The descriptions of habitat types in the draft are good as far as they go, but are too brief. An example of the kind of description that I think should be done is in the current management plan for the St. Marks National Wildlife Refuge.

Without adequate habitat descriptions, some very serious problems may get overlooked. For instance, is the native ground cover vegetation of the pine lands maintaining itself in a healthy condition? Are any of the many plant species that compose the native habitat types declining in population? Are some of the habitat types being progressively destroyed by the population explosions of exotic plants like *Melaleuca* and *Schinus*?

2. The GMP is supportive of continued and expanded research into biological controls of exotics plants.

The second deficiency I see in the draft has to do with exotic plant control. If the habitat quality of such of the preserve is threatened by the rapid increase of exotic plants (and I think it is), then much stronger measures should be proposed in the draft to address this problem. (Having read the Big Cypress National Preserve Malauca Control Summary/Action Plan, I realize that some strong measures are in fact being taken, but these are not supported strongly enough by the draft management plan.)

I have been managing forest lands of various kinds in north Florida for 30 years and have considerable experience using fire, herbicides, and mechanical treatments to control vegetation. I suspect that you are understating the problem and are overly optimistic about the prospects of solving it with the above methods. I doubt that any combination of these methods will result in the long term control, much less total eradication of Malauca or Schinus from the Big Cypress National Preserve. The only hope in the long run is to use biological control methods. A combination of the other methods with biological control would be the ideal strategy.

Since biological control is arguably the most promising weapon in the battle to control the exotic plant invasion problem, there should be a strong statement supporting this approach instead of the very weak language now in the draft. Some money and effort have already been spent on finding biological agents to control Malauca, and the results so far are encouraging. To fail to strongly support biological control measures in the management plan is equivalent to agreeing to a possible death sentence for the Florida panther and much of the rest of the Big Cypress fauna and flora.

Sincerely,

Bob Simms

NOV 27 1989

R. A. McKeithen
Rt. 16 Box 1660
Tallahassee, Fla. 32310
November 22, 1989

Regional Director Bob Baker
National Park Service
75 Spring Street
Atlanta, GA. 30303

Dear Mr. Baker:

On August 20, 1989 the Florida Dog Hunters and Sportsman Association unanimously voted to support the Everglades Coordinating Council's proposals to the Big Cypress National Preserve General Management Plan.

Our association feels that the proposals made by the National Park Service are unnecessary and very restrictive. As one of the largest hunting associations in the State of Florida, we urge you to consider our appeal.

Thank You:

R. A. McKeithen
R. A. McKeithen
President F.D.H. & S.A.

- 1. See response 1 to the Florida Game and Fresh Water Fish Commission and response 1 to the Everglades Coordinating Council.



FLORIDA FARM BUREAU FEDERATION

150 South Monroe St., Suite 300, Tallahassee, Florida 32301 Phone (904) 222-2557

November 30, 1989

Mr. Bob Baker, Regional Director
Southeast Regional Office
75 Spring Street, S.W.
Atlanta, Georgia 30303

Dear Mr. Baker:

The Florida Farm Bureau Federation, an association of more than 73,000 member families, is writing to express its serious concerns about the "Draft General Management Plan and Draft Environmental Impact Statement on the Big Cypress National Preserve". This plan is restricting or abolishing certain recreational activities which is contrary to the original intent of the law that created the Big Cypress National Preserve [BCNP].

When former U.S. Senator Lawton Chiles introduced this legislation in 1974 to create the Big Cypress National Preserve, his intent was to make it a "National Preserve" so a person would have access by foot and/or motor vehicle and be able to hunt, fish and trap and not a "National Park" where there is no hunting and trapping and very limited access. When the National Park Service tried to limit these uses in the mid-1980's, Senator Chiles told the Park Service that the BCNP was for multiple use and not single use and that he would be against any limitations.

Now the National Park Service is again trying to limit or eliminate hunting, fishing, trapping and access to the preserve by having limited archery, only walk-in hunting, no ORV's, limited dog use for deer and hog hunting and severely restricted hunting days.

Many of our members use the scenic BCNP throughout the year for recreational purposes. The Farm Bureau feels strongly that to restrict activities within the preserve would be contrary to the spirit of the law that set this land aside for public use. Therefore, we are against any proposal which would restrict motor vehicle access, hunting, fishing, trapping and other recreational uses in the Big Cypress National Preserve.

Thank you for allowing us to respond to the "Draft General Management Plan".

Sincerely,

Ben Parks
Director of Governmental Affairs

cc: Carl B. Loop, Jr.
President, Florida Farm Bureau Federation

FLORIDA WILDLIFE FEDERATION

Official Wildl. Natural Wildlife Federation

STREET ADDRESS: 245 DANFORTH WILDS DRIVE
1000 DANFORTH STREET, FLORIDA 32114-8770
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PACONIA, ILL. 62450-7118



MARK V. K. FULLER, III
President

March 1, 1990

Mr. Robert Baker
Regional Director, Southeast Region
National Park Service
73 Spring Street, SW
Atlanta GA 30303

Dear Bob,

The National Park Service has prepared a draft management plan on the Big Cypress National Preserve. The Florida Wildlife Federation has reviewed the proposed Big Cypress National Preserve Management Plan and is submitting these comments. We support aspects of the proposed plan but also support some aspects of the status quo option. Specifically we recommend maintaining status quo hunting regulations unless the Florida Game and Fish Water Fish Commission, through its professional staff and rule making process operating with the best biological information from their managers and researchers, and from studies conducted by the University and Park Service researchers, determine that changes are needed in hunting regulations.

We approve that the Park Service should heavily rely on the Game and Fish Water Fish Commission in determining appropriate hunting regulations for the Preserve. We believe that in terms of wildlife management that there should be greatly increased cooperation between the FWS and the G&F.

Only as well as pedestrian access should be provided both north and south of either mile marker 31 or 22 and at mile markers 38 and 48 both north and south off of 1-75. It is also necessary to connect to the Turner River overpass over I-75 to allow public access to the Bear Island Unit. It is important that Turner River Road and Archel' grade be maintained at a level which permits safe round travel. However, in access areas where the road crosses natural sheet flow additional culverts should be put in place.

Even greater emphasis needs to be made on habitat management within the Preserve than is proposed. The use of prescribed burning should be increased from a proposed 50,000 acres per year to approximately 100,000 acres. This would benefit a wide variety of indigenous wildlife and stimulate vegetational heterogeneity.

1. See response 2 to the Florida Game and Fresh Water Fish Commission.
2. See response 5 to the Florida Game and Fresh Water Fish Commission.
3. See response 12 to the U.S. Fish and Wildlife Service.

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<p>4</p>	<p>In areas which have been previously, albeit disturbed (i.e., strips and oil pads) enhancement efforts to benefit the animals may be made. The first step should not be eliminated from the preserve as it constitutes an important potential area for the number whatever it occurs in the Preserve.</p>	<p>4. See response 9 to the U.S. Fish and Wildlife Service.</p>
<p>5</p>	<p>It is absolutely critical that the National Park Service initiate an intense effort immediately to eliminate misadventure infractions within and near the Preserve and before the problem becomes totally unmanageable.</p> <p>We agree that additional interpretive facilities should be provided for the public. These facilities should explain the role of fire and fire management in the Big Cypress. Education efforts should stress an understanding of the Big Cypress ecosystem and an explanation that Congressional intent for establishing National Preserves is quite different than the traditional National Park concept. The successful blending of a variety of recreational opportunities with the Preserve including hunting, fishing, frogging, birding, managed OGV use, and camping is a major objective of the Preserve concept. Also cooperative efforts between the National Park Service and the Game and Fresh Water Fish Commission concerning management, law enforcement, and research should be emphasized.</p> <p>Management of OGV activity within the Preserve will be facilitated by provisions for three Florida access points north and south of 1-27, along with the Turner River road overpass. It does not appear that the current proposals provide for sufficient parking areas and trailer storage areas for the permitted OGV activity envisioned in the plan.</p> <p>We do not believe that the non-hunting public is hampered in their enjoyment of the Preserve by the current, status quo hunting dates. The vast majority of the hunting activity is confined to a 60-day period with much of that occurring in a nine-day period. The hunting pressure on a per acre basis within the Preserve is among the lightest of any hunted area in the eastern United States.</p> <p>The Park Service staff and the Game and Fresh Water Fish Commission and OGV users are working on an OGV access designated trail plan which is first being put in place in Bear Island. Experience gained there can be translated to other management units with similar terrain.</p>	<p>5. Melaleuca control is ongoing in the preserve and would be continued under the proposed action.</p>
<p>6</p>	<p>Regarding the construction of 30 new sampling structures throughout the Preserve, we would like to ask that, whenever possible, existing structures be utilized or modified whenever feasible as part of this project.</p> <p>We ask that the staff general management plan be updated to make clear that plans of operations for oil and gas development should be denied where they will be detrimental to the purpose of the Preserve or where there is a likelihood of unacceptable environmental impacts.</p>	<p>6. Parking capacities have been revised in the proposed action.</p>
<p>7</p>	<p></p>	<p>7. See response 23 to the Everglades Coordinating Council.</p>
<p>8</p>	<p></p>	<p>8. The proposed action has been revised accordingly.</p>

9.

reasons. The development of campsites around the BCNP is a good idea. But the sites should not be developed to the point that they attract large numbers of wintering campers requiring expensive, public funded, infrastructure. Waste treatment facilities should be provided, but otherwise these perimeter campsites should remain primitive in character. More developed campsites should be readily available throughout south Florida for campers who require additional facilities.

Concerning hiking, the NPS proposes moving the Florida Trail away from the OLV trail. The trail was developed intentionally by an OLV over driving along with a Florida Trail Association representative who said along with a Florida Trail Association representative who said the trail by blading trees, Florida Trail hikers have stated they like having the swamp buggies use the hiking trails because they helped keep the vegetation cleared which is difficult because of long and active growing seasons. We request that the Florida Trail Association, the Florida Wildlife Federation, and the Everglades Coordinating Council work jointly with the National Park Service to develop trial issues and designs. We would like to encourage the NPS to develop outlying locations for ranger quarters. We would stress, however, that rangers assigned to the BCNP fully understand the complex legislation establishing the Preserve, and the vital role that the state of Florida and sportsman conservationists played in its creation.

Concerning interpretive centers, these proposals are acceptable as long as they do not interfere with the traditional recreation values of the area. These education centers should discuss the role of sportsman in the Preserve and should also provide a facility for educational displays by the Florida Game and Fresh Water Fish Commission.

We find it unacceptable that the NPS plans to spend only \$300,000 to remove and control aggressive exotic plants. The NPS should work with sportsman and others to remove all these plants. The NPS should also equip and train all their personnel on how to do this. We also request that the Florida Wildlife Federation, the Florida Wildlife Federation, and the Florida Wildlife Federation is strongly supportive of federal and state programs designed to control exotic vegetation. We are using our elected officials to provide additional funding for this program.

The Florida Wildlife Federation believes that both the National Park Service and the Florida Game and Fresh Water Fish Commission regulations should require that all OLVs in use within the BCNP be numbered in such a manner that they are readily identifiable from the air. This practice would be useful for law enforcement purposes.

It is our understanding that the National Parks and Conservation Association has recommended transferring all lands south of the OLV within the BCNP to the Everglades National Park. We strongly oppose any such move as entirely unwarranted and in violation of established congressional intent for the Preserve.

Respecting the notion that the NPS needs to restrict hunting

9. See response 22 to the Everglades Coordinating Council.

10. See response 27 to the Everglades Coordinating Council.

11. Such a land transfer is not proposed by the National Park Service.

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to provide for the enjoyment of others, we would like to remind the service that non-hunting outdoor recreational activities are available to the general public on the 1.9 million Everglades National Park, Collier Seminole State Park, Fakahatchee Strand State Preserve, Corkscrew Swamp Sanctuary, and other areas which do not allow hunting. The non-hunting segment of the population can also utilize the BCNP 12 months out of the year, while hunting only occurs during part of the year.

In closing we would like to point out that the Department of the Interior, the National Park Service, and the United States Congress, particularly Senator Levin, C. I. and the Florida Wildlife Federation, worked closely with the State of Florida and the Florida Wildlife Federation in creating the Preserve and establishing certain recreational criteria in order to achieve passage of the Big Cypress enabling legislation.

The Florida Wildlife Federation will continue working with the National Park Service, the Florida Game and Fresh Water Fish Commission, and others concerned with the sound management of Big Cypress National Preserve.

Sincerely,

Manley

Manley K. Fuller, President
Florida Wildlife Federation

cc: Governor Bob Martinez
Florida congressional delegation
National Wildlife Federation
Senator Edwin Childs
Florida Wildlife Federation Board of Directors

THE FUND FOR ANIMALS INC.

850 SILGO AVENUE, SUITE LL2, SILVER SPRING, MD 20910
 Telephone: (301) 585-2581
 FAX: (301) 585-2555

Cleveland Amory
 President

Wayne Pacelle
 National Director

Bob Baker, Regional Director
 Southeast Regional Office
 75 Spring Street, SW
 Atlanta, GA 30303

July 12, 1990

Dear Mr. Baker,


It has come to our attention that the management of the Big Cypress National Preserve (BCNP) in southern Florida is currently embroiled in controversy. The Florida Game and Freshwater Fish Commission (FGFWFC) and the National Park Service (NPS), who have jointly managed the preserve in the past, are now on opposite sides of the fence concerning a new management plan proposed by the NPS.

The plan, which would, among other things, place restrictions on hunting activity in the BCNP, has been rejected by the FGFWFC. Fortunately the NPS is standing its ground on this case and is willing to assume full responsibility for the management of the BCNP should the FGFWFC fail to compromise on a few key provisions in question. Essentially, though they agree on many of the provisions of the proposed management plan, the FGFWFC would prefer to see the status quo maintained and old management practices continued.

Though the plan does not eliminate sport hunting (our preferred alternative) in the BCNP, it does, as mentioned, place more restrictions on hunting activities. We are completely in favor of such restrictions and therefore, on behalf of our more than 200,000 members, we fully support the NPS and the proposed management plan.

We appreciate your on going efforts to develop and implement a more humane and progressive management plan for the BCNP.

Sincerely,


 D.J. Schubert
 Director of Investigations

1. The text has been revised to indicate that hardwood hammocks would be avoided for backcountry campsites.



National Audubon Society

ECOSYSTEM RESEARCH UNIT, BOX 1177, RT. 4, SANCTUARY RD., NAPLES, FLORIDA 34104 (813) 672-2151

November 28, 1989

Bob Baker, Regional Director
 Southeast Regional Office
 National Park Service
 75 Spring Street, SW
 Atlanta, GA 30303

Dear Mr. Baker,

I have just completed my review of the Big Cypress National Preserve draft general management plan and draft environmental impact statement. This document represents an excellent meshing of information available on the Big Cypress National Preserve with the interests of user groups and the mandate for management of a NPS preserve. I was very impressed with how well it has all come together.

I have been involved in research in the Big Cypress Swamp for 16 years now and was responsible for several of the National Park Service's studies on the preserve. As part of my review of the draft management plan and EIS, I went through our various reports on the Big Cypress National Preserve, and found nothing that should have been covered that wasn't, unless it was specifically indicated as not being covered by this document. Also, the Proposed Action is quite consistent with the information in our reports.

There is only one specific point I would like to see changed in the draft document. This is the statement about using hammocks in the Staircase Unit as campsites, which is stated at the end of the fourth paragraph under "Camping" on page 50. Considering the importance of hammocks as unique and scarce plant communities as well as habitat for wildlife, I would think that no use of these sites should be allowed, and that instead shelters be built to accommodate camping in this area.

The following are comments associated with Tables 18 and 19. "Summary of Proposed Action and Alternatives" and "Summary of the Impacts of the Proposed Action and Alternatives". Unless otherwise noted, I strongly agree that the Proposed Action is the most appropriate choice.

AMERICANS COMMITTED TO CONSERVATION

- 1) Visitor Use - Hunting: I have no good basis for favoring one or another of these alternatives.
- 2) Visitor Use - Frontcountry Camping: Alternative A permits an increased use of the preserve that seems appropriate.
- 3) Natural Resources Management - Minerals: While the Proposed Action agrees with the intent of the preserve's mandate, I can't help wondering if there really is enough potential for finding sufficient quantities of oil or gas to make the grief associated with the permitting process worthwhile. If the oil companies put in the time, money, and effort required, there probably are ways that these resources could be found and extracted without excessively impacting the preserve. On the other hand, the preserve would still be better off without these impacts. If there is any realistic and fair way that the mineral rights could be acquired by NPS, everyone would be much better off.
- 4) NPS Operations - Surface Water Flows: Same as No. 3.
- 5) NPS Operations - Water Quality: Same as No. 3.
- 6) NPS Operations - Mangrove Forests: Same as No. 3.
- 7) NPS Operations - Mineral Interests: Same as No. 3.

I feel the National Park Service staff who put this document together should be highly commended for their handling of an extremely complicated task.

Sincerely,



Michael Duever
Director



National Audubon Society

SOUTHEAST REGIONAL OFFICE
928 N. MONROE STREET, TALLAHASSEE, FLORIDA 32303 (904) 222-2473

February 28, 1990

Bob Baker
Regional Director
National Park Service
75 Spring St. S.W.
Atlanta, G.A. 30303

Dear Director Baker:

These are the combined comments of the Florida Audubon Society and the Southeast Regional Office of the National Audubon Society concerning the Draft General Management Plan for the Big Cypress National Preserve.

On January 12, 1987, the Florida Audubon Society submitted comments to the National Park Service concerning the Management Alternatives document circulated to the public. In general, the alternatives recommended in these comments continue to be the Audubon recommendation. We have identified the alternative (Proposed action, Alternative A or Alternative B) which most closely reflects the earlier recommendation, and have provided additional comments on the topic areas of the Management Plan.

HUNTING

We recommend the controls and limitations that are reflected in Alternative B. These would allow hunting in the Turner River, Loop and Stairsteps units for 140 days per year; allow no hunting in the Bear Island, Deep Lake and Corn Dance Units; establish a 30 day general gun season in the Turner River and Corn Dance units; allow bird dogs only in the Turner River Unit; allow no dogs in the Bear Island, Deep Lake, Corn Dance, Loop, and Stairsteps Units; allow only walk in hunting in the Loop Unit and reserve it for primitive weapons only.

AMERICANS COMMITTED TO CONSERVATION

ALABAMA • FLORIDA • GEORGIA • MISSISSIPPI • NORTH CAROLINA • SOUTH CAROLINA • TENNESSEE

Regional Director, National Park Service
February 28, 1990

The elimination or restriction of dog hunting and establishment of a quota permit hunt only management method for hunting in the preserve is most desirable. We urge that the Park Service make this a major management priority. A reduction of hunting pressure on the game animals (chiefly white tail deer) in the preserve is necessary for the survival of the endangered panther and other stressed species. In addition, the design of the management scheme should provide for maximization of recreational opportunities that are compatible within the Preserve for the greatest cross section of the public. While hunting is a traditional use within the preserve which should be allowed to continue at an appropriate level consistent with biological management factors, it must be recognized that many individuals who enjoy the preserve in other pursuits, such as nature study, hiking, and bird watching, find hunting disturbing to or incompatible with their activities, and generally avoid use of areas such as the preserve during periods when hunting is taking place. The number of persons who hunt comprise only a small fraction of the population in South Florida. Alternative B best balances the uses of the Preserve for the greatest percentage of actual and potential recreational users.

OFF ROAD VEHICLES

We recommend that the Service adopt Alternative B for the maximum level of control over the use of off road vehicles. This alternative would allow ORV use in the Turner River and Stairsteps Units, confining use to designated trails. ORV use would be prohibited in the Bear Island, Deep Lake, Corn Dances and Loop Units; allow pedestrian access only from I-75 at Mile 31; prohibit tracked vehicles and V-type tractor tires and limit ORV permits to 1500 per year. This alternative would allow an appropriate level of ORV use in the preserve, considering the relatively small penetration of ORV ownership within the general population of South Florida, and maximize the recreational opportunities for those who hike and prefer to enjoy natural history pursuits without the intrusion of ORV impacts. Due to retained interests in reserved properties, it may be necessary to issue special use permits on a carefully restricted basis to owners of such property interests within areas where ORV use is generally prohibited.

Regional Director, National Park Service
February 28, 1990

VISITOR SERVICES

We recommend that the Service adopt the Proposed Action alternative. This alternative would expand interpretive programs; allow backcountry camping generally in the Turner River and Loop units; allow backcountry camping only at designated sites in the Bear Island, Deep Lake, Comdance and Stairsteps Units; provide for construction of 50 backcountry camping shelters in the Preserve; provide six primitive campgrounds near existing roads; improve the loop road and provide interpretive exhibits. We further believe that consideration should be given to limiting the improvement of loop road to only one lane of traffic, managed for one way travel as an interpretive feature only.

MINERALS MANAGEMENT

We recommend that the Service adopt Alternative B to restrict minerals development within the Preserve. This alternative would restrict surface occupancy for exploration and production to areas outside of vegetation communities and cultural sites identified as important resource areas; permit exploratory drilling and production in the Bear Island Unit only from existing roads and pads; allow geophysical exploration and production in the northern section of the Turner River Unit; prohibit geophysical exploration and any drilling or production in Deep Lake Loop and Stairsteps units as well as half of the Corn Dance Unit and most of the Turner River Unit; restrict geophysical exploration and production of oil and gas in the northern half of the Corn Dance Unit to existing development plans; and allow no more than 10 percent of the surface area of the Preserve to be influenced by oil and gas activities at any one time.

Regardless of which of the alternatives is chosen concerning Minerals Management, we believe it is most crucial to maintain the 10% limitation on total impacts permissible at any one time as the primary preserve wide limitation on oil and gas activities. This must include the presumption of a 1/2 mile impact buffer at minimum from each site of oil and gas activity in order to assure accounting for all of the diverse impacts of these operations in the 10% limitation. Any variance from this standard would likely inflict severe impacts on resources within the Preserve in a manner inconsistent with the legislative mandate for resource protection as the primary consideration. In allowing mineral development.

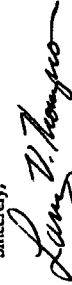
COMMENTS

RESPONSES

Regional Director, National Park Service
February 28, 1990

In conclusion, we wish to commend the National Park Service and the staff of the Big Cypress National Preserve for an excellent, professional planning effort concerning the preserve, and urge the prompt adoption and implementation of the management plan.

Sincerely,



Larry V. Thompson
Regional Vice President
National Audubon Society



Charles Lee
Senior Vice President
Florida Audubon Society



National Parks
and Conservation Association

March 1, 1990

Bob Baker, Regional Director
Southwest Regional Office
75 Spring Street, SE
Atlanta, Georgia 30303

Dear Mr. Baker:

This letter contains the comments of the National Parks and Conservation Association on the draft general management plan and staff environmental impact statement (hereinafter referred to as "plan" in this letter) for the Big Cypress National Preserve. We appreciate the opportunity to comment on this important document.

The National Park Service has done an admirable job of identifying and analyzing the many important values of Big Cypress National Preserve. However, we do not support the proposed alternative that was selected for the management of Big Cypress. We support Alternative B, with a few changes, because Alternative B is the alternative that is most protective of the fragile resources of Big Cypress.

As a general matter, the management alternatives in the plan do not reflect the only stated purpose for the establishment of the Big Cypress National Preserve in P.L. 93-440--to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress area. The plan appears, in some cases, to put other activities authorized, but not required, by the enabling legislation on an equal footing with the preservation, conservation, and protection of the resources.

The legislative history of P.L. 93-440 clarifies the Congressional intent in establishing the Big Cypress National Preserve. Senate Report 93-1128 states the following:

....The description of the Big Cypress area as a national preserve will establish a new category which can serve as a feasible and desirable vehicle for the consideration of other nationally significant natural areas which differ from the qualities attributed to national parks and national recreation areas. The committee chose to call the area a preserve rather than a reserve, feeling that such distinction may be important. Reserve refers



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to stock... commodity held for future use. Preserve
refers more definitively to the keeping or
safeguarding of something basically protected and
permanently for an intended or stated purpose, as
with the specific objectives for Big Cypress
provided by this legislation. . . . The principal
thrust of these areas should be the preservation of
the natural values which they contain. They might
differ, in some respects, from national parks and
monuments insofar as administrative policies are
concerned. Hunting, for example, subject to
reasonable regulation by the Secretary, could be
permitted to the extent compatible with the purposes
for which the area is established. Other
activities, including the extraction of minerals,
oil and gas could be permitted if such activities
could be conducted without jeopardizing the natural
values which the area seeks to preserve. Management
of the watershed resources might also be appropriate
if that would enhance the value of the preserve as
it serves other needs.

All management activities within these areas
should be directed toward maintaining the natural
and scientific values of the area, including the
flora and fauna and the reestablishment of the
indigenous plant and animal life, if possible.
Areas where scientific discoveries or historical
events took place would contribute to the values of
the preserve and should be managed in a manner which
will maximize both the natural and historical
values.

National preserves may accommodate significant
recreational uses without impairing the natural
values, but such public use and enjoyment would be
limited to activities where, or periods when, such
human visitation would not interfere with or disrupt
the values which the area is created to preserve.

1974 U.S. Code Cong. and Ad. News 5572 (emphasis supplied).

As the legislative history clearly demonstrates, and P.L. 93-460
specifies, the purpose of the establishment of Big Cypress was to preserve
and protect the resources in perpetuity. Management activities and goals
must be directed toward that end. Other activities such as motorized
vehicle use, hunting, oil and gas exploration, and grazing may only be
permitted to the extent compatible with the preservation of the
resources. The proposed plan does not provide the level of protection
required to preserve and protect the resources.

Section 4 of the Act establishing the Big Cypress National Preserve
specifies that the Secretary shall administer the lands as a unit of the
National Park System in a manner which will assure their natural and
ecological integrity in perpetuity, in accordance with the provisions of
this Act and with the provisions of the Act of August 31, 1911. This



- 1. There is no requirement for inclusion of a finding as the comment suggests. The proposal and the alternatives have been developed in light of the statutory mandates affecting management of Big Cypress National Preserve. The purpose of the GMP/EIS process is to evaluate the environmental impacts of the proposal and its alternatives, not to provide a justification of the proposal. The record of decision, which will be prepared following the final GMP/EIS, will document the final findings of impacts and the appropriateness of the final plan.

COMMENTS

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requires an affirmative finding that the draft general management plan will achieve this legislative finding. No such finding has been included. Indeed, such a finding would not be included because the draft plan states that the proposed alternative is not the one most protective of the resources of the Big Cypress.

The following are comments on specific sections of the plan:

Minerals Management

One of the most disturbing policies outlined in the draft general management plan is the proposed policy regarding the acquisition of mineral rights by the Federal Government in the event the Park Service finds that a proposed plan of operations will be detrimental to the purpose of the preserve or will cause unacceptable levels of environmental impact. (p. 12-13) The proposed plan states that if such a plan of operations is deemed to have the potential for taking a property interest, funds will be sought from Congress to acquire the affected mineral estate. Then, incredibly, the proposed plan states that if Congress does not provide these funds within a reasonable time, the oil and gas operations will be allowed to go forward.

This policy subverts the very purpose for which Big Cypress was established. The purpose of the establishment of Big Cypress was not to facilitate oil and gas development. Oil and gas development is an acceptable use in the Big Cypress but the Secretary of the Interior is given authority to limit and control such development. 31 U.S.C. 93460 which will assure its natural and ecological integrity in perpetuity. It is inconceivable that the Big Cypress would be administered in a manner prepared oil and gas operation would adversely affect the preserve's water regime and hydrologically sensitive resources but the failure of Congress to appropriate funds within a "reasonable time" whatever that is would allow those operations to go forward.

The plan does not specify how the Park Service will deal with requests for development that exceed the amount of the Preserve. Indeed, overallowing can prevent or impede the development of the preserve. If such a situation occurs, it means that over 57,000 acres of the preserve could be closed to the public, water flows could be disturbed, interrupted or rechanneled, and any habitat affected.

Cultural Resources

1991 It is concerned that all the cultural sites within Big Cypress National Preserve have not been inventoried or located. A complete survey should be completed before other activities are authorized. Upon completion of the survey National Register nominations should be prepared as appropriate. Oil and gas development, hunting and any use should not be permitted in the absence of a complete survey. Road and trail development facilitates hunting and destruction of cultural resources.

RESPONSES

2. The statements have been revised in the final plan.
3. Based on the expected life of this plan and given current trends in oil and gas operations, it is not anticipated that the 10 percent level of development will be reached. In addition, mitigating measures could be proposed by operators to lessen impact levels and remain within the 10 percent limitation.
4. Further archeological surveys and inventories are proposed, with a systematic completion of national register nominations. Site-specific surveys would be conducted before any ground disturbance for oil and gas or other development. The proposed action has been developed in consultation with the state historic preservation officer to ensure the protection of cultural resources in compliance with the National Historic Preservation Act and other cultural resource regulations (see appendix F).

RPCA comments on BICY draft GMP
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RPCA is also concerned about the staffing level for the Preserve, particularly as it pertains to cultural resources. The plan does not call for a cultural resources specialist to be on the staff of the Preserve. Also, the management specialists are limited. Alternative 3 specifies that the National Park Service would strictly enforce penalties for disturbing human remains. In addition to human remains, NPFS recommendations recommend strict enforcement of penalties for disturbing archeological or sacred remains and that the status of Alternative 3 be maintained in whatever alternative is selected for the General Management Plan.

5

HUNTING

The plan does not provide an adequate level of protection for endangered species, particularly the Florida panther. In the Big Cypress Wildlife Service that is called for under the Endangered Species Act. The panther is in extreme danger of extinction and the plan states that Alternative 3 will provide the greatest probable improvement in numbers and health of the panther population. Therefore, given its responsibilities under the Endangered Species Act, the National Park Service should chose Alternative 3 for managing Big Cypress.

6

The plan would allow some form of hunting within the Preserve on 140 days of the year. Hunting season is the time of the year when it is most desirable for nonconsumptive recreational users to use the Preserve. Hunting makes the lands single use as far as recreational activities are concerned. Other people do not use areas where hunting is going on because of the danger. The National Safety Council estimates that 400 people are killed and 2400 are injured annually in hunting related accidents. The draft general management plan gives too much time to hunting activities and not enough time to nonconsumptive uses such as hiking and observing wildlife. This is inappropriate given the fact that many more people engage in nonconsumptive uses than engage in hunting. The 1985 National Survey of Fishing, Hunting and Wildlife Association Recreation issued by the Fish and Wildlife Service shows that 19.3 million people hunted on Fish and Wildlife areas while 161 million participated in nonconsumptive wildlife-related recreation.

7

There is substantial evidence that the panther leaves his home range when the area is hunted, where there are traps and where there are snares. Such vandals result in the animal abandoning urban areas. The plan recognizes this because the set of days for short lead hunting are prohibited in known panther areas which the plan states are the Bear Island, Bear Lake and Four Dunes units. The list with the hunter driver list which also has panther activity according to the plan. Therefore the use of dogs should also be limited to the former driver unit.

8

RPCA also objects to logging in the Preserve in the absence of data that such activity will not adversely affect the ecosystem. The declines in the numbers and variety of nesting birds that has been documented in the Everglades National Park is a cause for great concern. Some of these birds depend on frags for food. The Park Service should

5. The proposed action has been revised to more clearly reflect the intent to protect all cultural resources from disturbance or vandalism.

6. See responses 2 and 3 to the U.S. Fish and Wildlife Service.

7. See response 5 to the U.S. Fish and Wildlife Service.

8. See response 8 to the Everglades Coordinating Council.

WPCA comments on BICY draft GMP
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study the issue of frogging and make a determination of the effects. BIFEM permits are issued - see study the Lotus based on the permits.

Fire Management

Fire is an integral component of the ecology of South Florida, and WPCA strongly supports an aggressive fire management program for Big Cypress National Preserve. National Park Service fire management policy is the classic case of scenery versus ecology in the national parks, and the NPS must be forceful advocates for enlightened, continually refined, management that places ecosystem health first. The dramatic alterations in natural systems in South Florida require the National Park Service to continue active fire management programs employing suppression, planned ignitions, and natural prescribed fire, in order to protect human life, enhance wildlife habitat, and generally keep ecosystem processes functioning and healthy.

The NPS is contemplating an extensive increase in the fire management program for BICY. The draft GMP describes a number of objectives for the use of prescribed fire, listed not necessarily in priority order. WPCA believes that priorities must be set within the program and clearly stated in the GMP. For example, the objective to maintain habitats on cattle grazing issues, should be explicitly a lower priority than "manage wildlife habitat for game, nongame, protected, and rare species."

A successful fire management program demands scientific and technical expertise, sufficient financial resources and trained manpower, and effective communication with local communities and park constituencies about the purposes of fire and fire management goals. The National Park Service is to be commended for the work with fire management at BICY in the past, and WPCA would hope that the goals outlined in the Big Cypress GMP would be matched by a continued commitment to fully implement the program and explain it to the general public.

CARRYING CAPACITY/VISITOR IMPACT MANAGEMENT

The draft GMP contains numerous plans for expanded facilities and visitor services in Big Cypress National Preserve. These include major developed areas at the Ochopos headquarters/hunting area and the Ocala operations and visitor services center, trails, campsite facilities, picnic areas, road and access construction, continuous development and evolving ranger stations (p. 78). Many of these proposals will undoubtedly enhance resource protection and NPS administration of the park, as well as increase visitor enjoyment and access to interpretation. However, taken together, the cumulative effects described in Table 1 (p. 97) of park-wide development may well erode the unique values of Big Cypress.

Thus, WPCA is extremely disappointed that the National Park Service has chosen to ignore Section 104(b)(5) of P.L. 96-487 that explicitly states that general management plans for each unit of the national park system shall include "identification of and implementation commitments for visitor carrying capacities for all areas of the unit."

9. Prioritization of fire management efforts must remain flexible for efficient operations. Therefore, priorities are not specified in the GMP, rather they are updated annually in the preserve's fire management plan.

10. Carrying capacities for major visitor uses in the plan deal with ceilings on the total annual hunter-days (17,000) and total annual ORV permits (2,000); designation of ORV trails and areas; and design capacities of campgrounds, parking areas, and other visitor facilities. During non-hunting seasons, visitation in the preserve is well below levels of concern. For the hunting season, annual limits and distribution of hunting permits by unit (an effort that is to be jointly undertaken by the National Park Service and the Florida Game and Fresh Water Fish Commission) are set annually in response to resource conditions. While this is not the visitor impact management approach suggested by the comment, the proposed plan does provide for appropriate establishment of a carrying capacity through the establishment of acceptable visitor use levels. We believe that this approach is fully in compliance with the requirements of PL 95-635. In addition, visitor use studies have been initiated in response to provisions of PL 100-301.

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NPCA believes that the National Park Service is legally bound to utilize a highly professional program which includes clear identification of any management objectives, standards of acceptable change, and key impact indicators. Such programs are frequently referred to as visitor impact management (VIM), and NPCA has, in fact, been developing such a program for application in the national parks. The draft GMP has no serious discussion of how, when, and where the VIM program will be implemented. Particularly in light of projected visitation increases, it would seem desirable to seek funding for and initiate the program as soon as possible, preferably prior to the NPS embarkment on all of the major undertakings outlined in the GMP. Attached to NPCA's comments are visitor impact management issues. NPCA recommends that Big Cypress National Preserve adopt these actions, or similar language, in the final GMP.

At this point, NPCA would also like to register our firm opinion that all significant actions that are "triggered" off the GMP, such as all development concept plans, trail plans, landscape management plans, etc., must undergo requisite compliance with the National Environmental Policy Act (NEPA). NPCA believes that the NEPA work associated with the GMP does not necessarily suffice in every case, and that the NPS has a legal obligation to address each component of the GMP in context as it is contemplated for implementation.

Adjacent Lands

NPCA is also disappointed that the draft GMP does not include a specific section that addresses adjacent land issues. NPCA suggests the addition of language along the following line:

"Threats to park resources from sources beyond the park boundary are becoming more numerous with increased regional development. Examples are aircraft, attraction activities, land development, aircraft overflights, and alterations of natural water delivery systems. There is a need for enhanced data collection to establish baseline conditions and monitoring of park resources to identify trends or unusual changes, so that park managers can identify any effects from existing and potential future external influences. To meaningfully anticipate and avoid impairment of park values from activities located outside park borders, inventories are needed to better identify interrelationships between the park's resources values and adjacent lands and lands surrounding the park. There is a need to identify and define such potential effects adjacent to Big Cypress National Preserve that contain values and resources integral to park resources and visitor enjoyment. This includes watershed lands that extend beyond park boundaries, adjacent riparian resources or habitat utilized by park wildlife, natural or historic sites that are related to sites within the preserve.

- 11. Appendix F, "Compliance Status," has been revised to indicate that future NEPA compliance, which would be tiered on the final GMP/EIS, may be necessary.
- 12. Rather than including a separate section addressing issues or actions related to adjacent land uses, these concerns have been incorporated throughout the document. For instance, see references contained in "Related Issues and Concerns," the "Natural Resource Management" section of the proposed action, the "Affected Environment" section, and the descriptions of cumulative impacts under each impact topic. Active participation by the preserve staff in regional resource issues is cited in the references to the Florida Panther Interagency Committee, the Exotic Pest Control Council, and other working relationships with state and federal agencies in south Florida. Additional language has been added to the planning issues section of the document to indicate that the Park Service would actively seek to work with local and state governments and individuals to resolve potential issues related to resources or adjacent lands.

COMMENTS

RESPONSES

PFCA comments on BICY draft GEP
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page 7

This type of systems and approach is strongly supported by the Departmental manual, GEP, and other agencies. GEP has attached to their comments an excerpt from the Acton GEP that illustrates cross-agency issues.

Thank you for consideration of these comments.

Sincerely,

Elizabeth A. Foyed
Elizabeth A. Foyed
Park Threats Coordinator

enc.

1. As documented in the final GMP/EIS, the National Park Service has concluded that there are biological and administrative reasons to revise hunting management.

2. See response 2 to the Florida Game and Fresh Water Fish Commission.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1000 Rhode Island Avenue, N.W.
WASHINGTON, D. C. 20038

November 28, 1989

Mr. Bob Baker, Regional Director
Southeast Regional Office
75 Spring Street, S.W.
Atlanta, Georgia 30303

Dear Mr. Baker:

On behalf of the National Rifle Association, I am pleased to respond to the "Draft General Management Plan and Draft Environmental Impact Statement on the Big Cypress National Preserve" issued by the United States Department of the Interior, National Park Service.

The Big Cypress National Preserve is a unique area, both in terms of its environment and traditional use. When the Preserve was created in 1979, the NRA supported hunting, trapping and fishing within the Preserve and these were included in the law as compatible with the intent of the subtropical reserve. However, this Draft General Management Plan is threatening that right.

The National Park Service DGMP appears to ignore the fact that the Big Cypress Preserve enabling act and amending legislation did not create a "wilderness park" but a "preserve."

The NPS has proposed substantially reduced game harvests as well as new access stipulations that would severely restrict hunting. NRA supports 60 days of a general gun season and 280 days of hunting per year. There is no biological data or user data to support a change in the traditional hunting seasons.

The NRA opposes the NPS full season hunter quota that is non-transferable. Florida has taken appropriate actions to protect the resources from over use and there is only one hunter per 4,000 acres at peak use times. Therefore, the NRA supports the hunter management alternative for a quota the first 10 days and none thereafter.

In general, the NRA is opposed to all DGMP proposals that limit or eliminate hunting, trapping and fishing in the Big Cypress such as no dogs, only bowhunting, only walk-in hunting and no ORVs.

The NPS desires conflict with a long-standing agreement between the state and federal government, which delegates responsibility for managing wildlife in Big Cypress to the Florida Game and Freshwater Fish Commission.

-2-

Responsible hunters appreciate the need for protection of the Preserve's delicate ecosystem. But piecemeal elimination of hunting -- as suggested by the DCAMP -- would undermine the concept of multiple use. On the other hand, recreational hunting plays a vital role in Preserve Management.

As a representative of 3,000,000 NRA members, I request that the DCAMP reflect management of a "preserve" and protect the right of access to public lands for hunting, trapping, fishing and other recreational uses.

Sincerely,

James Jay Baker
James Jay Baker
Director
Federal Affairs Division

- 3. The National Park Service agrees that recreational hunting is an important aspect of visitor use and resource management in the preserve. There is no intent to eliminate recreational hunting within the preserve, but rather to improve hunting management for resource protection and a quality visitor experience.



Working for the Measure of Tomorrow.

NATIONAL WILDLIFE FEDERATION (INC.)

Southwestern Natural Resources Center (404) 876-8733
1718 Peachtree Street, N.W., Suite 592, Atlanta, GA 30309

March 7, 1990

Mr. Robert Baker
Regional Director
National Park Service
75 Spring St., SW
Atlanta, GA 30303


Dear Bob:

Enclosed are the comments of the National Wildlife Federation on the draft General Management Plan and draft Environmental Impact Statement for the Big Cypress National Preserve.

Please add our comments to the record of decision on managing the preserve.

Thank you for considering our comments.

Sincerely,


RUDOLPH A. ROSEN
Director



Working for the Nurture of Tomorrow.

NATIONAL WILDLIFE FEDERATION (INC.)

Southwestern Natural Resources Center
 1718 Peachtree Street, N.W., Suite 592, Atlanta, GA 30309
 (404) 876-8733

COMMENTS OF THE NATIONAL WILDLIFE FEDERATION ON THE DRAFT GENERAL MANAGEMENT PLAN AND DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE BIG CYPRESS NATIONAL PRESERVE

By

Rudolph A. Rosen, Ph.D.
 National Wildlife Federation

The National Wildlife Federation (NWF) is pleased to offer comments on the draft General Management Plan and draft Environmental Impact Statement for the Big Cypress National Preserve (BCNP). The NWF is the nation's largest not-for-profit conservation-education organization. We have over 6 million members and supporters, and affiliated organizations in the 50 states and the U.S. Territories. In Florida, the NWF's state affiliate is the Florida Wildlife Federation.

The NWF's members are vitally concerned about the management of the BCNP and its natural resources. We began our fight to preserve the lands now encompassed by the BCNP long before the preserve was established and continue to support protection of these lands. Our members also are dedicated to the preservation of endangered species, a function we consider a primary mission of the U.S. National Park Service (NPS) in its administration of the BCNP. In addition, many of our members regularly enjoy outdoors activities, such as camping, hiking, canoeing, fishing, and hunting. Such activities are among those enjoyed by some of our South Florida members who are among traditional, and continuing users of the lands of the BCNP.

In general, the BCNP Management Plan outlines a considerable number of ambitious programs, projects, and proposed activities that will help protect the natural environment and educate the public about the preserve, its past, and its resources. Many of the actions proposed are not only well-conceived, but absolutely essential to the improvement of the BCNP's natural environment. However, we have a number of concerns about certain proposals and the underlying basis for these proposals, as well as some concern about the priorities assigned to activities within alternatives.

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Comments on BCNP General Management Plan
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History

The legislation that authorized the BCNP mandated creation of a new type of NPS-managed unit. Emphasis was placed on preserving natural values and maintaining traditional uses. Congress provided the NPS considerable discretion in determining how to balance use and preservation.

The NWF and our Florida affiliate were among the chief advocates in the early 1970s of protecting the land now encompassed by the BCNP from development (agriculture and development for residential and commercial use were considered the chief threats to the environment at the time the preserve was created). In advocating creation of the BCNP, it was the intent of the Federation that traditional public uses be maintained. In Congressional hearings in 1974, then Executive Vice President of the NWF, Thomas Kimball, stated that "...the intent [of the proposed Act establishing the BCNP] was to preserve the watershed and allow as many compatible recreation uses of the land as possible." Even earlier, in 1972, representatives of the NWF wrote the House Subcommittee on National Parks and Recreation stating that "[o]ur prime interest in this area...is to preserve it in essentially the same condition as it presently exists...yet permit compatible uses maintaining the "status quo."

Active land and wildlife management programs were envisioned as integral to preservation of the land as well as maintenance and enhancement of traditional uses and recreational activities. The NWF held then, as we hold now, to the principals of scientific management of living resources and protection of those resources threatened with extinction.

Thus, it is only after thorough consideration of the current management plan and actions of various interests that we express concern that institutional constraints or conflicting responsibilities may be adversely affecting wildlife management decisions, possibly to the detriment of wildlife or to the exclusion of or reduction of biologically sound traditional use activities. Concern along these lines goes back at least to 1972, when the Federation recognized potential jurisdictional conflicts between the NPS and the state wildlife management agency, advocating that wildlife management be done by the state agency responsible for such management. In 1972 testimony to Congress, the NWF declared "[t]he National Park Service does not belong in the field of fish and wildlife management...."

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Comments on BCNP General Management Plan
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In 1988 continued concern about the relationship between the NPS and the Florida Game and Fresh Water Fish Commission, and the impact of this relationship on the best management of deer and panther in the BCNP, resulted in a WNF resolution urging full cooperation and coordination between the two agencies "...in all matters relating to the proper management of wildlife, including utilization of wildlife resources, law enforcement, and habitat management and research in the Big Cypress National Preserve." This resolution is attached for your reference.

It was envisioned that with perpetual protection of the land from development, traditional recreational pursuits could continue in perpetuity. This was believed to be possible, because at the time the BCNP was created no adverse effects were perceived to have yet resulted from the level and nature of public recreational use. Impacts were evident, however, from agriculture, grazing, minerals development, and development for permanent habitation. The federation and other backers of creating the BCNP also realized that recreational activities could have effects, given changes in the nature and intensity of those activities, thus provisions were included in the legislation to curtail recreational or other activities when and if important resources are threatened. We support reduction or elimination of activities that threaten the natural resource base of the preserve.

The NPS must reconsider its priorities.

There is an emphasis on park development in all alternatives, except in the "Status Quo" Alternative. We strongly suggest a different approach that places emphasis on protecting the natural environment first, and considers as secondary all activities unrelated to resource management, such as providing visitor amenities and increasing infrastructure (such as apartment units and additional office space) to support the additional staff proposed to service the added visitor amenities.

Before going into detail, it's important to understand that the NPS is not opposed to providing visitor services such as interpretive centers and improving existing campgrounds or increasing staff to ensure proper management of such services. These are desirable activities as long as they are conducted in a manner that is not harmful to the environment or wildlife, and the current primitive nature of use of the backcountry is maintained. Our concern here is over the priority assigned to such activities by NPS in relation to essential resource management activities, knowing full well

1. The three phases shown in appendix D, "Implementation Costs," are not sequential priorities for funding. Funding for facility construction, for instance, does not compete with funding for exotic plant control, and resource management programs would not be delayed until visitor facilities were constructed. Further, costs are only given for special projects and capital investments resulting from the proposed actions. It is not intended to show the total or annual operating costs of managing the preserve. Further, the provisions of PL 95-625 require that the National Park Service specify development levels and locations, as well as provide for resource management, in general management planning efforts.

The facilities proposed are not simply for visitor or staff convenience, but for resource protection as well. For example, the proposed ORV access points would not only provide a safer, more organized trailhead for visitors, they would also reduce impacts to soils and vegetation as compared to unorganized entries, and they would provide for more accurate monitoring of backcountry use. Interpretive facilities are also viewed by the National Park Service as a basic means of providing for public understanding and support for resource protection, not unessential amenities.

The resource research, management, interpretive, and law enforcement activities conducted by the staff in the preserve also require adequate support facilities. Management of the preserve has suffered in the past due to an inadequate, makeshift physical plant. The proposed operational facilities are intended to bring the plant up to standard so that the preserve can be properly managed.

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 Comments on BCNP General Management Plan
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that it is unlikely that the entire management plan envisioned by the proposed "A", "B", and "C" Alternatives will be funded immediately if ever. Resource management simply must come first in funding and implementation.

The funds and resources allocated to proposed development activities is tremendous relative to the funding and attention proposed for resource management. For example, in the three "action" alternatives, resource management for the 574,000-acre preserve is funded at only \$1.72 million. Nine resource management activities are listed in phases one through three. Alternatively, in the "Proposed" Alternative there are 27 development activities at a cost of \$15.35 million, 8 housing activities at \$1.74 million, 7 recreation and maintenance actions which include mostly new construction at \$3.01 million, 5 actions to improve utilities at \$0.98 million, and 11 interpretation activities at \$1.35 million. That's a total of \$23.35 million in the "Proposed" Alternative of which only \$1.72 will be for managing and restoring the environment. But, it's no different in the other two action alternatives. The amount for natural resource management stays the same, while activities unrelated to resource management increase to \$39.50 million for Alternative "A" and only decrease to \$17.72 million for the "Minimum Interpretive and Recreational Opportunities" Alternative, Alternative "B".

We believe there are additional resource management needs that are not addressed in the general management plan. Indeed, the list of activities under resource management seems insignificant given the size of the BCNP and diversity of habitat and uses. The overwhelming emphasis placed on expanding BCNP infrastructure, staff, offices, and visitor amenities is both unexpected and unexplained.

For example, there is a critical need to eliminate harmful exotic plants especially melaleuca, but also Australian pine and Brazilian pepper. Melaleuca which is spreading at alarming rates, dominates natural habitat and is difficult and expensive to control. Melaleuca currently affects 7% of the BCNP (38,400 acres) yet the proposal contemplates allocating only \$200,000 total for an annual treatment of 2,000-3,000 acres. We recommend that sufficient funding and resources be proposed to eradicate all harmful exotic plants and animals.

We don't understand why eradication of a major threat to the BCNP is shortchanged and assigned to the same priority level as developing 13 DMV access points (at a cost of \$1.3 million), when ORVs currently seem to have more access than the NPS prefers. Something is out of sequence when Brazilian

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proper control is listed in "phase three", while "phase one" includes rehabilitation of four campgrounds (at \$3 million) and resurfacing of an already functional road (at \$3 million) so that visitors arriving in the typical "family" sedan can more easily tour the preserve. Something seems out of place when millions of dollars are proposed to remodel and build hunting and other infrastructure to accommodate an increase in personnel from 21 to 56 permanent staff and an increase from 20 to 42 seasonal staff, when of the 32 new full-time staff only two would have backgrounds in resources management, and both would be at a GS-9 level which is below grade for even journeyman-level professionals (six seasonal "botanists" also would be hired at the GS-5 level, which is the same grade level as park secretaries and clerks).

It appears as though people pleasing amenities and the staff and infrastructure to support these amenities may have out-competed sound and active resource management in development of proposals for "management" of the RCMP.

We recommend that in each alternative, "phase one" be restructured to include the currently proposed resource management activities and other essential needs, such as repair of existing facilities. These one also should include additional, but not proposed, resource management activities. Phase two and beyond should include a ranking of nonessential activities, including all those activities proposed in the plan unrelated to resource management. We would be happy to work with the NPS to help identify additional resource management-related activities that would contribute to enhancement of wildlife and other natural resources of the preserve. Some of these are indicated below.

The technical basis for wildlife management proposals is weak.

In general, we are concerned at the low quality of technical support for some resource management proposals described in the plan with respect to resource management. All alternatives should be based on restoring, protecting or enhancing the natural environment. Paramount is protection of endangered species, over which there should be no variance between alternatives, because pertinent resource management activities must be directed at recovery as mandated by the Endangered Species Act. All proposed activities must be supported by a factual information base, and where information is lacking, it should be gathered.

The greatest deficiency in available information appears to be in the area of wildlife (including endangered species)

2.

The proposal and its alternatives, as well as the analysis of potential impacts, are based on the best available information. During the impact analysis fish and wildlife experts from the state and federal levels, as well as NPS specialists, were consulted (see the "Consultation and Coordination" section). The information and analysis is appropriate and meets the requirements of the Council on Environmental Quality and the regulations implementing the National Environmental Policy Act, and it provides a sufficient basis for making decisions after taking into account the potential environmental consequences.

There has been some difficulty obtaining accurate data on the numbers of hunters using Big Cypress, the hunting methods employed, and harvest levels. The hunting management proposal is intended to generate more reliable data on hunting and game populations.

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management. We provide numerous examples of proposals based on questionable or nonexistent data. Studies or additional review of available information should be among the highest priorities in the category of resource management."

However, wildlife management proposals are by no means consistently deficient as there are feasible alternatives where excellent management is proposed. A good example is the proposed management program for red-cockaded woodpecker. The disclaimer in the plan on its well-reviewed and well-documented that NPS biologists or consultants helping draft the document are aware of state-of-the-art scientific research and management techniques for the species and are keying management on this information base. For other species, generally those for which the technical support base for a proposed action should be bear developed because of their relatively high degree of importance, such as panther, deer, and bogs, little seems understood (or at least reported) and what is known appears subject to divergent interpretations. A lack of substantive support for management decisions on such species is puzzling.

The management plan has been officially under development since January 1985. Indeed, the public, including NWF was asked to comment on management alternatives over three years ago. Thus, there has been plenty of time to develop and implement needed studies or resolve conflicts in interpretation of existing study results. In other words, lack of information or confusion about existing information are poor excuses for not having solid reasons for resource management proposals in 1990.

Focusing on wildlife management, the list of preparers of the Plan includes only a single wildlife biologist, yet wildlife and management of wildlife habitat is one of the primary purposes of the BCNP and major wildlife management proposals are outlined in the plan. The plan suffers from inadequate substantive involvement of wildlife managers. We suggest the NPS place greater reliance on the expertise of biologists of the Florida Game and Fresh Water Fish Commission (see attached NWP resolution) and the U.S. Fish and Wildlife Service. The NPS states that a more involved process at some future time will further define wildlife management regulations. Perhaps wildlife management specialists will be more fully involved later in the interim, though actions are proposed that will affect wildlife and traditional recreational opportunity, but which are not well supported by scientific information listed or referenced in the text.

For example, wildlife biologists seem to agree that the annual harvest of about 130 post-rut bucks in the B-74,400-

3.

During the development of the draft GMP/EIS the U.S. Fish and Wildlife Service provided two wildlife biologists, including an endangered species specialist, as consultants to the planning team. The "Preparers and Consultants" section has been revised to reflect their participation. During preparation of the plan there was extensive informal consultation with both the U.S. Fish and Wildlife Service and the Florida Game and Fresh Water Fish Commission, as described in the "Consultation and Coordination" section. In addition, other NPS wildlife biologists were included in the intensive review of the document.

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Since BCNP is having little or no effect on deer population levels, indeed all the usual criteria by which to judge deer population condition, point to habitat as the limiting factor, not harvest. Deer population levels tend to "adjust" to hunting mortality at low harvest rates, yet reductions in harvest are proposed. The same is true for hogs. Typically, hog populations expand rapidly. Current harvest in the over half million acres is 130 hogs annually. Population level is clearly the result of habitat condition, not the result of harvest. Why are so few deer and hogs taken? Because hunting pressure is limited by the current permit system and general hunting conditions are challenging (note the low 1.6% hunter success rate). The WFS is fully correct, however, in seeking more complete harvest data. We suggest a full harvest census, which could be facilitated in part by implementing the proposal for a "non-transferable" permit.

The purpose of proposed regulations to reduce deer harvest is ostensibly to increase the prey base for panther. But, the WFS is misreading the data, and as a result is misdirecting focus of attention (and WFS resources) toward a minor variable affecting the health of panther populations, possibly at the expense of dealing effectively with more critical variables. Non wildlife biologists reading the plan are given false confidence in the "actions" to recover the panther, while more substantive possible actions (set below) may not be receiving adequate public scrutiny or needed support.

There are still more examples of wildlife management proposals ostensibly to benefit panther which are based on inadequate information. The WFS expresses concern over the number and condition of panthers and various actions are proposed to "manage" panthers including changes in deer hunting, hog management, burning, and OMS use. Yet, little is known about the panther, including age and type of prey, disturbance impacts, or existing and optimum panther population levels in the habitat offered by the BCNP. Loss of habitat from a multitude of land conversion activities is most likely the main factor controlling survivability of panther in South Florida. In fact, it is generally

McCorm, J.W. 1987. The effects of hunting and habitat quality on the Big Cypress Preserve Deer Herd. Florida Game and Fresh Water Fish Commission. Tallahassee, Florida.

Downing, R.L., L.K. Hallis, and R.L. Marchinton. 1986. Deer management evaluation final report. Unpublished report presented to the U.S. National Park Service, Ocala, Florida.

4. Proposals for protecting the Florida panther, as cited in the text, are based on the recommendations of the *Florida Panther Revised Recovery Plan* (USFWS 1987a). The proposed action includes the use of prescribed burning, which would benefit panther habitat as well as restore a more natural fire pattern to the ecosystem. In addition, disturbed sites, such as abandoned drilling pads, would be restored to natural conditions, thus providing for additional wildlife habitat and a restoration of the ecosystem in these areas.

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acknowledged that remaining public land in South Florida, including the BCFP which is characterized by extended hydroperiods and low fertility, represents a relatively poor panther habitat. The reason panthers continue to exist in the area is most likely because of their vast size and relative lack of development and inaccessibility.

Greater emphasis needs to be placed on restoring and enhancing the habitat in a manner that supports general goals of improving the condition of the BCFP for wildlife and specific goals for recovery of panther. Instead of proposing activities to intensively deal with habitat variables, the NPS emphasizes reducing deer harvest, doing "something" (the reader becomes confused) about hogs, controlling ORV use, and so on. Given the nature of the animal populations at issue and the nature of the activities to be controlled, improving habitat condition for predator and prey have the highest likelihood of providing actual long-term benefits to the survival of panther. One possible proposal would be to convert disturbed sites, such as drilling pads, into special wildlife enhancement plots. These areas could be specifically designed and planted with native vegetation to provide high quality forage for deer. Another option is to increase the area of land proposed to be burned annually for wildlife enhancement purposes.

Another example of zero-tolerance is used to support a proposed wildlife management action is the proposal limiting legal consumptive use of wildlife based on an alleged high incidence of illegal deer harvest. Here the reader is presented no information to gauge significance of illegal harvest. In addition, the Florida Game and Fresh Water Fish Commission is on record as disputing the existence of illegal harvest of deer and has concluded that their biologists see no indication (biological characteristics or composition of the deer herd) that harvest, illegal or legal, is affecting deer population levels. The NPS proposes restricting legal activities to reduce illegal activities. We are unsure this properly addresses the problem. Increased enforcement, increased cooperation between the NPS and Florida Game and Fresh Water Fish Commission officers, and cooperative efforts with sportsmen and sportswomen using the area should help reduce or and illegal activities that can affect wildlife. Programs such as "bush-hounders" have been demonstrated to be effective when local sports groups and other users become involved in the process of procuring their resources. The NPS should directly address the problem.

Letter from Col. Robert Brantly, Executive Director, Florida Game and Fresh Water Fish Commission to Mr. Robert Behar, Regional Director, National Park Service. March 10, 1988.

5. The removal of preserve resources, whether legal or illegal, is of concern in managing the preserve. The illegal taking of animals is reported and documented every year, and it is likely much more illegal hunting goes unreported. The Deer Management Review Panel cited illegal hunting, as well as panther predation, as a possible explanation for a lack of older does in the preserve (Downing et al. 1986). Past Florida Game and Fresh Water Fish Commission estimates for illegal taking of deer have been as high as 15 percent of the fall population, which equals or exceeds the legal harvest estimate (Harlow and Jones 1965). Long-time hunters in the Big Cypress have given similar estimates of illegal hunting (Duever et al. 1986a). The text has been modified to further clarify the relationship between illegal hunting activities and proposed management responses.

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And, as a final example of a proposed action in need of thorough scientific support, but for which none is provided (only conjecture) her studies proposed, is the effect of ORVs on the environment. The law requires that ORVs be allowed in the BCMP only as long as their use is compatible with protecting natural resources. The plan lists alternatives for ORV use, each of which permits some level of use as well as varying prohibitions on ORV use. Several studies refer to "impacts" defined as a variance from normal along the path of the ORV after passage and length of time for such "impacts" to disappear. However, the pertinent question is not whether impacts exist according to some scale of measurement, what is important is whether ORVs have an unacceptable adverse effect on the environment. For example, burning caused visible and measurable effect, but fire also can improve condition of habitat. ORV tracks could disrupt sheet flow creating hydrologic irregularities that could be deadly harmful, or the tracks may be found to be beneficial because they pond water in dry times providing refuge for fish that, in turn, become the only available food for nesting birds. Similarly, although ORVs cause disturbances to nesting birds resulting in detrimental disruption of feeding or perhaps they facilitate new growth of plants and open water so that birds and other wildlife can better feed thus enhancing growth and survivability. Regulations are being proposed without really understanding the effects of these vehicles. Instead of proposing to build the new "Pattons" concession operation for \$193,440, why not fund a scientifically valid study to determine if ORVs are damaging the preserve.

Minerals management.

Either an activity causes unacceptable harm to the environment and should be excluded or it does not and can be (must be) continued according to the Act establishing the BCMP. The NPS proposes an unacceptable action for oil and gas development. Specifically, the NPS will determine if the activity will have a detrimental effect on BCMP water or natural values. If unacceptable impacts are predicted, the NPS will deny access for the stated purpose. The NPS views such denial as "taking" of property rights and will request funds from Congress to buy the "taken" rights. If Congress fails to act on the NPS's request, then the oil and gas development will be allowed to proceed. We strongly object to this procedure as it fails to ensure protection to the resources of the preserve. We urge the NPS to take the following approach: if an activity is determined to be detrimental to the environment or purpose of the preserve, then that activity should be denied by prohibiting access for

6. The National Park Service believes the impacts of ORV use have been sufficiently investigated and described (Duever et al. 1981; Duever et al. 1986b) to set the direction for ORV management in the proposed action.
7. The proposed action has been revised to clarify minerals management procedures.

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the stated purpose. The NPS has full discretion to do so, providing the decision is based on good biological or resource-based information and a substantive record.

General.

The majority of proposed visitor amenities, although of secondary priority when compared to resource management needs, would be of benefit to the BCNP user. Most of the proposals seem well developed. We are especially supportive of the proposed interpretive and educational centers.

We strongly urge that the current "primitive" nature of use of the backcountry be maintained. We understand the need to provide some backcountry shelters to replace the former "campsites", however we emphasize that all NPS proposed activities should be designed in a manner that has minimal impact to the environment.

We are less enthusiastic about what we view as possible "amusement-oriented" amenities. The current short "sight and buggy ride" is harmless and could be turned into an educational experience with assistance of the NPS. However, is ill advised. Operation of a swampbuggy is unlike driving a family car or truck, and there is the ever-present potential for misuse and thus possible damage to the resource. In addition, the interior of the BCNP can be a dangerous place to the first-time visitor even without the hazard of operating unfamiliar equipment.

We support the proposal to establish canoe trails in the canals adjacent to the main roads and in other waterways. However, we wonder how the NPS proposes to maintain an opening for canoe travel given the high concentrations of exotic water hyacinth and hydrilla in waterways. Will the NPS use chemicals to treat these waters?

Proposals to restore the former hydrologic characteristics to the BCNP are a high priority. All possible actions to restore the land and water resources of the BCNP should be proposed for review and funding.

8. The proposed action has been revised to provide only concessioner-guided ORV interpretive tours. See response 2 to the Southwest Florida Regional Planning Council.

9. The use of chemicals to control water hyacinth and hydrilla is not proposed.

Resolution No. 20

DEER AND PANTHER HABITAT MANAGEMENT IN THE
BIG CYPRESS NATIONAL PRESERVE

WHEREAS, the Big Cypress National Preserve (BCNP) represents one of two principal holdings of federal land in south Florida; and

WHEREAS, the BCNP was purchased from Florida landowners specifically to aid in the maintenance and restoration of the Everglades ecosystem; and

WHEREAS, outdoor recreation such as camping, hunting and fishing within the BCNP are authorized by law and remain important to residents of Florida and the nation; and

WHEREAS, the endangered Florida panther is an important component of the south Florida ecosystem; and

WHEREAS, with proper habitat management, populations of prey species on which the Florida panther depends can be increased to benefit the panther; and

WHEREAS, buffering and protecting the Everglades National Park, preserving land uses of the area, and protecting the Florida panther requires multiple use management of the BCNP; and

WHEREAS, the Florida Game and Fresh Water Fish Commission is duly constituted as Florida's wildlife management agency and has a shared responsibility with the National Park Service for the management and protection of wildlife resources in the Big Cypress National Preserve;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation in annual meeting assembled March 17-20, 1968, in New Orleans, Louisiana urges (1) scientifically-based multiple use management of the Big Cypress National Preserve, (2) the Big Cypress National Preserve comprehensive management plan being developed by the National Park Service include management objectives for whitetail deer and other prey of the Florida panther, and (3) the U.S. Fish and Wildlife Service's final Florida Panther Recovery Plan be modified

COMMENTS

RESPONSES

Resolution No. 20

Page 2

so as to require the National Park Service to manage the Big Cypress National Preserve ecosystems with special consideration for the Florida panther; and

BE IT FURTHER RESOLVED that the National Park Service and the Florida Game and Fresh Water Fish Commission fully cooperate and coordinate in all matters relating to the proper management of wildlife, including utilization of wildlife resources, law enforcement, and habitat management and research in the Big Cypress National Preserve.

- 1. See response 2 to the Florida Game and Fresh Water Fish Commission and response 1 to the Everglades Coordinating Council.



North American Hunting Club

12301 Whitewater Drive/P.O. Box 3401
Hopkins, Minnesota 55343
Phone 612/936-9333

June 20, 1990

Mr. Robert W. Baker
Regional Director
National Park Service
75 Spring St. SW
Atlanta, GA 30303

Dear Regional Director Baker,

Here is a copy of the letter we have sent to Secretary Iujan and Director Ridenour. We ask that it become a part of the public record.

We are convinced that the management of game and fish should be governed by the State Commission rather than the National Park Service.

Thank you for hearing our plea.

Sincerely,
Steve Burke
Steve Burke
President

SB:elm
SLE:17



North American Hunting Club

12301 Whawater Drive/P.O. Box 3401
Hopkins, Minnesota 55343
Phone 612/936-9333

June 20, 1990

Honorable Manuel Lujan, Jr.
Secretary of the Interior
Interior Building
Washington, D.C. 20240

RE: The Everglades/Big Cypress Controversy

Dear Secretary Lujan:


Please make this letter a part of the public record favoring the adoption of the National Park Service's Proposed Management Plan "A." We do have some reservations about its need and also its thrust, but it properly omits some of the draconian measures included in other NPS proposals.

We have long felt that the management of this land should rest in the able hands of the Florida Game and Fish Commission. They have a history of successful management. They are on the spot. Further, their management was mandated by Congress in the enabling legislation that created this recreational jewel.

Over the years, the Orvellian Theory of "Big Brother Knows Best" has been disproven repeatedly. We had hoped never to see an attempt to breathe life back into it. However, the actions of some mid- and lower-level federal bureaucrats indicate that such an attempt is being made. We strongly oppose these actions.

Thank you for your concern and your assistance.

Sincerely,


Steven F. Burke
President

SFB:alm
SFB:15



Quail Unlimited
Southeast Florida Chapter
11908 S.W. 24th Terrace
Miami, Florida 33165
(305) 558-5617

Mr. Bob Baker - Regional Director
Southeast Regional Office
National Park Service
75 Spring Street S.W.
Atlanta, Georgia 30303

Dear Mr. Baker:

I would like to comment on the proposed changes in vehicle, dog, hunting and use of the BIG CYPRESS. I have a sincere interest in the wildlife and Big Cypress area which I have hunted and used for years.

- * Do not restrict or eliminate the use of Bird dogs - they do not molest or bother other wildlife and are always under close control. Restrict the use of dogs for deer and other hunting but not for quail.
- * Do not eliminate off road Vehicle use completely - set aside some larger areas for Vehicle hunting.
- * Do not reduce the small game season as reduced hunting pressure does not effect small game populations. The key to abundant game is food and cover not restricted hunting.
- * Work with Quail Unlimited and the Wild Turkey Federation to gain input and cooperation of the hunters and wildlife supporters on how to increase the game and still have a good hunting season.

Our Quail Unlimited Southeast Chapter would like to work with you since we both have the same objective to increase the game and wildlife population. Lets control and manage but not restrict and eliminate hunting and wildlife. Thank you.

Yours very truly,

[Handwritten signature]

2. See response 1 to the Everglades Coordinating Council.

3. See response 1 to the Florida Game and Fresh Water Fish Commission.

guarantees protection of our right to hunt in that area. This means not only that hunting regulations may not be unduly restrictive, but that reasonable access must be allowed so that hunting can take place.

Your proposed action for hunting would reduce deer and feral hog harvest by 25 to 50%. Your proposed action on off-road vehicles would limit access points and ORV use substantially beyond what is presently allowed. Yet your proposed action on visitor services would expand backcountry camping activities by constructing new shelters, by adding one additional primitive campground, and by expanding concession services. What this amounts to is managing the area as if it was a National Park, as opposed to a National Preserve.

We feel that the Florida Game and Freshwater Fish Commission should be the ultimate determiner of the wildlife conservation in the Big Cypress area. The Commission is in the best position, and has the proper expertise and training, to evaluate the wildlife situation and to plan appropriate management strategies. As far as we know, the Commission would not support the kind of limitations on hunting and on access that you are proposing. This is because these limitations are unnecessary for wildlife conservation. They are mainly a reflection of a park-management philosophy which is not appropriate for a National Preserve.

Sincerely yours,

Richard M. Parsons

Richard M. Parsons
Counsel to SCI



SIERRA CLUB

The Florida Chapter

Mr. Bob Baker, Regional Director
 Southeast Regional Office
 National Park Service
 Atlanta, Georgia 30303

Post Office Box 2436
 Lake City, FL 32056
 February 27, 1980

Dear Mr. Baker:

We appreciate the admirable effort by National Park Service staff to develop a General Management Plan which provides appropriate guidance for protection, maintenance and enhancement of the high ecological values of the Big Cypress National Preserve and responsible use which is perceived to be compatible with the purposes of establishment. It is a difficult task. The pressures of growth in public lands are intense and resolution of these pressures increasingly troublesome to address.

The Proposed Action goes a long way, from our perspective, towards addressing management problems and concerns related to the casualties of visitor use (hunting, off-road vehicles, on-site interpretative programs, etc.), protection of federal and state-listed plants and animals, and preservation of important natural and cultural resources values (hydrology, vegetation, archeological).

A stated goal of the Draft Plan is the determination of which lands would be available for public use and which lands would be open for oil and gas activities.

A Proposed Action and three Alternatives are presented. Our comments fall somewhere between the Proposed Action and Alternative B, the latter of which provides for limited recreational opportunity but with the emphasis on preservation of both natural and cultural resources. Alternative B also perceives the "greatest probable improvement in numbers and health of panther populations," a priority concern of our organization.

Concerning Alternative B, we would lean towards this philosophy, while being sensitive to the purpose for establishment (Public Law 93-440, 1974) stated on page 6 as "the preservation, conservation and protection of the natural, scenic, hydrologic, floral, and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof." With the escalating diminishment of native Florida panthers due to development and its associated pressures, we think that maintaining the integrity of public natural resource lands should be the goal that guides their management, and that this is the highest public purpose for these lands.

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Page 2

Bob Baker, Regional Director
NPS, Atlanta

With this in mind, we have the following comments and suggestions. We are not adequately familiar with the different Units of the Preserve (Corn Dance, Stairsteps, etc.) to specifically address them as such, thus our comments are in some aspects more general in nature.

Visitor Use

Interpretation and Support Facilities, Hiking and Camping. It is important to provide visitors with opportunities to understand and appreciate the ecology of the Preserve, including wild plants and animals, and the systems which support these species. We are supportive of the proposed new interpretative and information programs and trails, and think these will accommodate most users with these interests.

We are less supportive of constructing 50 new backcountry shelters. This seems excessive to us. The proposal is not only likely to adversely impact wilderness values but would also utilize funds that could better be directed to management needs such as prescribed burning and removal of exotic vegetation.

There are high values associated with lack of development in wild areas, if they are to remain "wild." Construction and other disturbance diminishes these values and detracts from the enjoyment of those individuals seeking a true wilderness experience. There are few such areas remaining in Florida. Those which occur on the Big Cypress should be maintained.

Hunting: Hunting, fishing and trapping activities in the Preserve are regulated by the Florida Game and Fresh Water Fish Commission. NPS and GFC consult on proposed changes in these regulations, except for emergency situations.

The Preserve, with its diversity of species and habitats, is a dynamic area. Activities outside the Preserve influence, in varying degrees, these dynamics. Some examples are surface and groundwater impacts (canals, roads, irrigation) and land use changes, such as conversion of native habitat to citrus and vegetable croplands. Species such as the highly-endangered Florida panther are negatively affected by these changes through loss of habitat and prey species. Hunting and other human activities must, therefore, be considered in the context of the dynamic conditions on the Preserve and on adjacent lands.

In the past, the GFC has approved a number of regulation changes to help address species and habitat concerns in the SCNP. Further changes are indicated, due to increasing pressure on the panther from loss of habitat and prey species and to unhealthy habitat conditions on some areas of the Preserve (exotic intrusion; need for increased use of fire). The overall comprehensive effects of hunting (prey base and access) are not yet well understood, and this must be included among the aforementioned considerations in evaluating the desirability of more restrictive regulations. Conservative regulation, which favors the panther, seems to us to be the appropriate direction in this Plan.

Bob Baker, Regional Director
NPS, Atlanta

February 27, 1990
Page 3

We urge that research continue to determine the level of impacts of hunting and other human uses, including the disturbance factor, on the Florida panther. We further think that adequate enforcement is an important component of the management program and that problems relative to check stations should be resolved, including checking in and out to better determine actual use. These two aspects, enforcement and check station management, seem to us to be clearcut and attainable.

We strongly urge NPS and GRC to work cooperatively to regulate hunting and sportsman activities to protect the native wildlife and plant species on the Preserve while allowing acceptable levels of use. We urge, too, that different management philosophies not polarize this process. The pressure of growth in Florida are cumulatively destroying the natural resources of our state and the great need for continued, and perhaps enhanced, cooperation and sensitivity to different perceptions and mandates among the various entities as they act to best satisfy their management directives.

ORVs: Off-road vehicles are a source of disturbance to native habitat, including soils, vegetation and wildlife. We support increasing all-season restrictions where this use is causing habitat degradation. Existing damages to habitat should be adequately assessed and used as a basis for determining the appropriate level of permitting. Effort should be made by NPS to raise the awareness of Preserve visitors and others as to the documented impacts of ORV use, and the need for restrictions to minimize adverse impacts. Using designated trails only is supported.

Hydrology: We are supportive of efforts to ensure continuous natural water flows and water quality to the preserve in order to maintain ecological integrity of both the RWP and Everglades National Park. Part of this effort would be to maintain and restore natural flows and water quality in disturbed areas and to avoid further hydrological disturbances to the watershed. We would suggest, in this regard, adding the U. S. Environmental Protection Agency to the list of entities with whom NPS consults. Others are Dade, Collier and Monroe County governments, Florida Department of Environmental Regulation and Department of Natural Resources, South Florida Water Management District and the U. S. Corps of Engineers.

The intent of NPS to avoid further "occupation or modification of floodplains and wetlands, in accordance with Executive Order 11988 and 11990" (page 54) is appropriate, and we concur. It is, therefore, disconcerting to note that fill is proposed for 10 ORV staging areas, 7 parking areas and additional fill at existing campgrounds. The total quantity of fill is estimated at 7 acres.

The proposed filling of wetlands should not be considered. Public lands, due to their higher purpose, are one of the few land categories where this activity can and should be prohibited. To allow further fill in wetlands on NPS lands, even if relatively small sites, adds to the cumulative total of destroyed wetlands in South Florida and in all of our states a total which is already appallingly high. This proposal also conflicts with current national policy for to meet loss of wetlands. NPS should not even consider further wetlands loss on lands in their stewardship.

1. The National Park Service entered into formal negotiations with the Florida Game and Fresh Water Fish Commission to achieve agreement on hunting management in the preserve. See response 2 to the Florida Game and Fresh Water Fish Commission.
2. The Environmental Protection Agency and the other agencies listed have been consulted during the preparation and public review of the draft GMP/EIS, as well as the other federal, state, and local agencies listed in the draft document (see "List of Agencies and Organizations to Whom Copies Were Sent" in the draft document and comments received from those agencies in the final document).
3. As noted in the draft GMP/EIS, filling within some wetlands is unavoidable in order to provide public access for recreation, appreciation of the preserve's resources, and NPS operations to protect those resources. However, under the proposed action there would be a net increase in wetland acreage through the restoration of existing disturbed wetlands and surface water flows, in accordance with Executive Order 11990.

Bob Baker, Regional Director
NFS, Atlanta

February 27, 1990
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Minerals Management: Our concerns in this regard relate to the adverse impacts of extractive activities on soils and vegetation, degradation of water quality, impacts to wildlife, including endangered and threatened species. The potential for detrimental effects to natural resources in the preserve are high, and thus acquisition of mineral rights should be a priority for pursuit by NFS.

Until this can occur, Alternative B may be a reasonable compromise, allowing some exploration and extraction without compromising the entire Preserve. We have reservations, though, about the potential for degradation as noted above.

Relative to reclamation of disturbed sites, we think that "restoration" should be at least 80-90% complete prior to allowing further mineral development.

Vegetation Management

Exotic Species: There is a significant need to eradicate exotic plant species, primarily Melaleuca, Schinus (Brazilian pepper) and Casuarina (Australian pine). We perceive the problem to be extremely serious, to a significant threat to the integrity of the entire preserve ecosystem.

We therefore strongly urge that priority be given to escalation of the eradication program of these exotics. Intensive effort should be made to identify and utilize effective biological control methods.

Fire Management: We are strongly supportive of the use of prescribed fire, both planned ignitions and prescribed natural fire, to maintain and enhance fire-evolved native communities and to achieve other natural resource management goals. We can conceive of no other management tool which is more important or necessary to satisfy the purposes of Establishment.

We are somewhat puzzled, however, by the objective on page 64 to "research the ecological role of fire in the Preserve's varied ecosystem" and hope that this research will not preclude extensive use of prescribed fire until some future time when the research is concluded.

It seems to us that the role of fire in the various ecosystems in Florida, including the GNP and EWP, has been well studied, and that what is known and documented clearly justifies extensive utilization by public lands managers. The decline, for example, of the native longleaf-savannah community in natural resource situations is directly attributable to lack of fire or to a regime restricted to only winter burning. Certainly additional research would be desirable. However, we see no justification for delaying the program while further research is conducted. We therefore urge that the language on page 100 which indicates an upper limit of 50,000 acres annually be changed to reflect a minimum of 50,000 acres annually, with a goal of 100,000 acres. Seasonal burning should also be emphasized.

Wildlife

Florida Panther: We are strongly supportive of the goals of the Florida Panther Revised Recovery Plan (USFWS 1987). These goals are stated below:

4. Research on furthering prescribed fire would be aimed at understanding the effect of fire and at improving fire management techniques and methods. Research would be part of an active, ongoing fire management program. The proposed action has been revised to accommodate as much as 100,000 acres of prescription burning annually.

- February 27, 1990
Page 5
- Rob Baker, Regional Director
NPS, Atlanta
- Identify, protect and enhance existing Florida panther populations range-wide, as well as protect and manage habitats
 - Establish positive public support for the management of the Florida panther
 - Reintroduce Florida panthers into areas of suitable habitat

Actions proposed by NPS in the Proposed Action are supported by our organization: (1) maintain panther habitat, (2) reduce human activity in panther habitat, (3) reduce hunting pressure on prey species, and (4) continue research on panthers and prey. Two further actions are (5) to develop interpretive programs to establish positive public support for panther management, and (6) to cooperate with the FCRWGC and U. S. Fish and Wildlife Service to reintroduce Florida panthers into areas of suitable habitat in the Preserve.

The Florida panther is under extreme risk of extinction. It is both federally and state listed as Endangered. The species is documented as using virtually the entire Preserve (Appendix C, p. 346). It is critical to properly manage and protect the habitat and to provide an adequate prey base for the species. Our comments and concerns expressed elsewhere in this review are relative to Florida panther recovery, particularly those concerning habitat and prey management.

A further comment relates to the proposed Comprehensive Ecological Study discussed on page 70. We concur that this is an important need in regard to improving the data base for management of white-tailed deer, feral hogs and the Florida panther. Coordination with the GFC to complement the agency's ongoing research efforts is also supported.

Red-cockaded Woodpecker: This highly endangered species suffered a significant setback with the loss of habitat and numbers of birds as a result of Hurricane Hugo's effect on the Francis Marion National Forest. It is critical that all public lands' managers properly and adequately provide the best opportunity possible for recovery of this species on their lands. This includes inventories to determine trends and, importantly, an appropriate burning schedule with emphasis on growing season burns.

Feral Hogs: These animals should be maintained as an important prey item for the Florida panther. In areas of sensitive plant species and where cultural sites occur, measures should be taken to protect these situations. This could include fencing of cultural sites threatened by feral hogs and recreational hunting. We acknowledge that this is a sticky problem relative to the presence of the animals (as exotics) on the Preserve and we offer our support for NPS sensitivity to the need for panther sustenance.

Ligustrum Tree Snail: We concur with management proposals to use fire on hammock edges but to protect the hammocks themselves from fire, especially during dry periods.


In closing, thank you for the opportunity to offer our perspectives on different aspects of the Post Management Plan and Proposed Action. As previously stated, the Plan seems overall to provide good

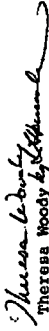
Bob Parker, Regional Director
MPB, Atlanta

February 27, 1963
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guidelines for management of the Preserve. We again stress the importance of cooperation and coordination with other entities, including the Florida Panther Interagency Committee. This is a critical aspect to provide for resource protection and preservation and reasonable public use and enjoyment.

We look forward to reviewing your final Plan, and offer our appreciation for your hard work and efforts.

Sincerely,

Judith C. Hancock
Public Lands
Florida Chapter, Sierra Club


Theresa Woody
Southeast Field Office
Sierra Club



SIERRA CLUB LEGAL DEFENSE FUND, INC.

1511 P St., N.W., Suite 200 Washington, DC 20005 (202) 667-4700 fax (202) 667-2136

Annual Address

February 28, 1990

Mr. Robert Baker
Regional Director, Southeast Region
National Park Service
75 Spring Street, SW
Atlanta, GA 30303

Re: Draft General Management Plan for Big Cypress
National Preserve

Dear Mr. Baker:

On behalf of the Wilderness Society, Sierra Club, National Audubon Society, Florida Audubon Society, Defenders of Wildlife, and the National Parks and Conservation Association, the Sierra Club Legal Defense Fund submits the following comments concerning the direction for minerals management in the draft general management plan for the Big Cypress National Preserve. These comments supplement the general comments submitted by these organizations concerning the draft general management plan.

The draft general management plan establishes direction for regulating the exploration and extraction of privately-owned minerals within the Big Cypress National Preserve. As you know, such activity is a matter of substantial concern for the management of the Preserve and the protection of its resources. The Preserve is unique among units of the National Park System in that virtually all of its lands are "split-estate" lands, in which the federal government owns the surface while private interests retain the subsurface mineral estate. Large-scale development of such privately-owned minerals may pose a major threat to the Preserve's sensitive resources and its water quality.

The plan accordingly establishes detailed guidance for regulating such mineral development within the Preserve. Much of that direction, including the limitation on the overall area of the Preserve that may be affected by oil and gas development and the

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Mr. Robert Baker
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designations of important resource areas where surface mineral development should not be allowed, appears appropriate and prudent. The Legal Defense Fund and the organizations for whom it submits these comments are concerned, however, that the plan's direction for mineral management is in one significant respect both improper and illegal.

The plan expressly recognizes that acquisition of nonfederal mineral interests may be necessary in some circumstances to protect the Preserve's resources. Draft GMP, p. 60. If funds for acquisition are not available, however, the plan requires the National Park Service to approve mineral plans of operations even where the Service has concluded that those plans will cause unacceptable damage to the Preserve. The plan states:

In the event the National Park Service rejects a plan of operations because it would be detrimental to the purposes of the preserve or because of anticipated unacceptable levels of environmental impact resulting from such operations (i.e., the existing regulations cannot provide the level of protection necessary) and the denial is viewed as a potential for the taking of property interests, funds will be sought from Congress to acquire the affected mineral estate. If funds are not made available for acquisition within a reasonable period of time, the oil and gas operation will be allowed to proceed under reasonable rules and regulations.

Draft GMP, p. 60.

The Legal Defense Fund, and the organizations for whom we submit these comments, believe that this proposed course is manifestly imprudent, and directly violates the National Park Service's legal duty to protect the resources of the Big Cypress National Preserve.

The National Park Service is required to manage the units of the National Park System in conformance with the fundamental purpose of that system: "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. § 1. Congress reemphasized that primary duty in 1978, and directed that "[t]he authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established..." 16

Mr. Robert Baker
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U.S.C. § 1a-1.

That fundamental mandate for protection applies fully to the Big Cypress National Preserve. Congress established the Preserve "to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof." 16 U.S.C. § 698f(a). Congress directed that the lands of the Preserve be administered by the Secretary of the Interior "as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity" in accordance with the provisions of the establishing legislation and of the Park Service Organic Act. 16 U.S.C. § 698i(a).

With respect to oil and gas activities within the Preserve, Congress specifically authorized the Secretary of the Interior to acquire oil and gas rights by condemnation where the Secretary determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the Preserve. 16 U.S.C. § 698i(c). Congress further directed the Secretary to develop regulations to "limit and control" the use of federal lands and waters in connection with the exploration for and extraction of oil, gas and other minerals. 16 U.S.C. § 698i(b).

In light of this sweeping mandate to protect the sensitive resources of the Preserve, and the explicit Congressional authority to condemn mineral interests or control their development to further the purposes of the Preserve, the Legal Defense Fund and the organizations for whom we submit these comments believe that the National Park Service cannot legally approve an oil and gas plan of operations which it has determined would be "detrimental to the purposes of the preserve" or would cause "unacceptable levels of environmental impact." In such circumstances, we believe that the Secretary of the Interior's duties under the National Park Service Organic Act and the Big Cypress establishing legislation require him to exercise the authority Congress has granted to condemn the affected mineral interests. To compensate the private owner of those interests, the Secretary should employ any funds that are legally available to him, including funds available through the Land and Water Conservation Fund.

Even if such funds were wholly unavailable, however, the National Park Service and the Secretary would retain their regulatory responsibility to protect the resources of the Preserve. In such circumstances, we believe that the National Park Service still must deny a plan of operations that would impose unacceptable environmental impacts on the Preserve's

1. The wording on page 60 and throughout the final GMP/EIS has been revised.

Mr. Robert Baker
February 28, 1990
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resources. If that action results in a regulatory taking, compensation will be available for the mineral owner through the federal courts in accordance with the Tucker Act, 28 U.S.C. § 1491. As the Supreme Court has observed, "the possibility that the application of a regulatory program may in some instances result in the taking of individual pieces of property is no justification for the use of narrowing constructions to curtail the program if compensation will in any event be available in those cases where a taking has occurred." United States v. Riverside Bayview Homes, 474 U.S. 121, 128, 106 S.Ct. 455, 460 (1985).

It is our opinion, therefore, that the National Park Service would violate the law if it were to approve a plan of operations for oil and gas activities where it has determined that such activities would be detrimental to the purposes of the Preserve or would inflict unacceptable environmental impacts. To the extent that that course of conduct appears authorized by the National Park Service's regulations at 36 C.F.R. § 98, those regulations are themselves in violation of the laws governing the Service's administration of the National Park System. See 36 C.F.R. § 9.36(3) (purporting to authorize approval of a plan of operations which would "substantially interfere with management of the unit to ensure the preservation of its natural and ecological integrity in perpetuity, or would significantly injure the federally-owned or controlled lands or waters," where denial would constitute a taking).

We ask that the draft general management plan be amended to make clear that plans of operations for oil and gas development must be denied where they will be detrimental to the purposes of the Preserve or may be anticipated to cause unacceptable environmental impacts.

Sincerely,



Robert G. Dreher
Staff Attorney

WILLIAM D. EPLING
CONSERVATION COMMITTEE
SUN CITY AUDUBON SOCIETY

November 28, 1989

Mr. Bob Baker, Regional Director
S.W. Regional Office
75 Spring Street S.W.
Atlanta, GA 30303

Dear Mr. Baker:

Our committee has looked through the Draft General Management Statement and Draft Environmental Statement for Big Cypress National Preserve. I'm sure there are some things beyond our scope of understanding, but a great many things in the report we do understand and may have some insights into.

We care about the endangered species, non-endangered species, invasive exotic plants, recreational use, oil and gas development, hunting, cypress domes, mixed hardwood swamps, hammocks, marsh, sloughs, mangrove forests, off-road vehicles (none should be permitted) and last, but not least, we care about hydraulics and water quality.

I tried to find some mention in the report of Okeechobee pollution impact on Big Cypress. By the time your water quality monitoring stations detect the problem, it's too late to help Big Cypress. If Okeechobee dies, a good part of Big Cypress is apt to go the same way regardless of what you are now doing to save it. Measures that do not consider the overall picture are sadly inadequate.

Respectfully,

William D. Epling
William D. Epling

1. As described in the "Affected Environment, Water Resources" section, the original boundaries of the preserve encompass an essentially self-contained hydrological unit (see Hydrology map). Only about 5 percent of this area receives water from external sources, including waters originating from Lake Okeechobee. While the National Park Service is well aware of the water quality problems associated with Lake Okeechobee and other sections of the Everglades drainage basin, hydrological data do not indicate that pollution in Lake Okeechobee is a major threat to the Big Cypress basin. The National Park Service will continue to coordinate with other federal and state agencies to improve and protect water quality affecting all national park system units in south Florida (see "Purpose and Need for a Plan, Related Issues and Concerns").

NOV 30 1989



Tropical Audubon Society, Inc.

3530 SUNSET DRIVE
MIAMI, FLORIDA 33143

November 20, 1989

Mr. Bob Baker, Regional Director
Southeast Regional Office
75 Spring Street, S.W.
Atlanta, GA 30303

RE: Comment on Draft General
Management Plan for the
Big Cypress Preserve

Dear Sir:

Tropical Audubon Society, Inc., a local Chapter of the National Audubon Society, has reviewed the Draft General Management Plan for the Big Cypress Preserve.

We urge the adoption of "The Proposed Action" and would add further comment on possible modification to the proposed action and our opinion on not weakening key elements of the proposed action.

The "Proposed Action" incorporates a good blend of preservation, corrective actions, and the development of non-consumptive uses, in the Preserve. Given the Preserve's location between a heavily urbanized area to the East and a rapidly developing urban area to the West, pressures for use of the Preserve will increase.

The development of interpretative trails, backcountry and frontcountry camping, hiking, and other non-consumptive uses will allow for access to the Preserve in a manner consistent with the Preserve's goal of "ensuring the natural and ecological integrity in perpetuity."

The proposed action will also provide for restoration of certain areas of the Preserve through mitigation of canals and dikes. Further mitigation of environmental degradation can be achieved via the control of exotic vegetation called for in the proposed action. Melaleuca infestation poses one of the most serious threats to the Preserve and must be dealt with quickly and comprehensively.

CONSERVATION IN ACTION IN SOUTH FLORIDA
(305) 666-3111

1. See response 5 to the U.S. Fish and Wildlife Service.

Mr. Bob Baker, Regional Director
Southeast Regional Office

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The minerals management element of the plan requires special comment. We feel that limiting the total area of disturbance to the Preserve by minerals exploration and extraction to no more than ten percent of the total land area of the Preserve, at any given time, is minimally adequate. Through communication with other organizations concerned with the well being of the Preserve, we have learned that there is significant pressure to weaken or eliminate the 10% provision. We would strongly oppose any action of this nature.

In the past, our organization has participated in efforts to ensure that any exploration or extraction activities be conducted with proper application of all levels of regulation and review of those activities. We do understand that mineral rights are protected by the Preserve's enabling legislation and that the exercise of these rights can be carried out under proper supervision. It is the proper supervision provision that must be adhered to in all phases of minerals management.

As you are well aware, the Big Cypress is a very sensitive ecosystem. Its surface water flows and vegetation types makes it very vulnerable to the types of damaging activities that are inherent in the exploration and extraction processes. The 10% disturbance limit, as we understand it, will only come after all environmental assessments and/or environmental impact statements have been completed.

Our final comments on the plan will be directed at O.R.V. use, hunting regulations, and critical habitat under the proposed action.

Access to the preserve and operation of O.R.V.'S in the preserve must be regulated. Repeated studies have shown that significant degradation to the Preserve occurs due to the unregulated use of O.R.V.'s. The proposed action which incorporates a mix of actions such as designated trails, vehicle type restriction, closure of specified areas, and access point restrictions, will help protect the Preserve from degradation while still allowing for the use of O.R.V.'s by the public.

We request two significant modifications to the proposed actions as it relates to hunting in the preserve. The first proposal is to eliminate the use of dogs for hunting in all units of the preserve. Studies at both the State and Federal level have concluded that the stresses placed on the endangered Florida panther and its prey base of deer and feral dogs are greatly

Mr. Bob Baker, Regional Director
Southeast Regional Office

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increased by the use of hunting dogs. These stresses include outright mortalities of panthers, being driven from preferred habitat to less secure habitat for both deer and panther, reduction of the numbers of deer and hogs as prey base, impacts in the health of both panther and deer due to stress caused by dogs, and impacts on the reproductive capability of deer, feral hogs, and panthers.

Given the critical status of the Florida panther and the possibility of extinction of the animal in the wild, we feel that all possible steps be taken to protect this animal and increase its chances for survival. Eliminating the use of dogs would be a major gain to further the protection of this species.

The second modification to the hunting element of the proposed action is to close to hunting at least one of the two units of the Preserve where significant panther activity occurs. The two units are Bear Island and Corn Dunes.

The closure of at least one of the units would fulfill two significant needs. The first is to create a control area for the purpose of studying an undisturbed panther habitat and prey base. Closure will also create a greater opportunity for the creation of "ecological integrity" for at least one of these areas.

We are well aware that both of the proposals would be assembly opposed by certain user groups. However, we are facing the loss of a species. If this were to occur without the agencies responsible for its preservation having taken every action possible to protect and preserve the species, then we will have allowed one of the most public and successful failures to achieve the goals of N.P.S.

We are chiefly concerned with critical habitat as it relates to the Cape Sable seaside sparrow and Red-cockaded woodpecker. Both birds are Federally endangered species. The proposed action needs to go further towards their protection. We recommend two actions. The first is to conduct better monitoring projects for both birds. The second is to not allow mineral exploration or extraction in old growth pine lands to further the protection of the Red-cockaded woodpecker.

We do concur with the proposed action, burn plan for the habitats of both species.

Tropical Audubon wishes to thank the National Park Service and the staff of the Big Cypress Preserve for the efforts they have put into formulating this draft plan. Hopefully, with

2. Alternative B discusses the impacts suggested by the comment.
3. Improved monitoring programs are proposed for the Cape Sable seaside sparrow and red-cockaded woodpecker. The "Minerals Management Plan" contains stipulations that would provide sufficient protection for the red-cockaded woodpecker, but it does not call for complete exclusion.

COMMENTS

RESPONSES

Mr. Bob Baker, Regional Director
Southeast Regional Office

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the comments that we have offered and the comments that will come from other individuals and organizations the final adopted plan will guide the Preserve to a healthy and productive future.

We will continue our efforts to ensure that M.F.S. and the Preserve receives adequate funding to achieve the goals of the adopted plan.

Sincerely,

Robert L. Kelley
Robert Kelley, President
Tropical Audubon Society

1. The proposed action is consistent with all federal laws and regulations relating to management of the preserve. Input into the planning process has been open to all interested publics.

WHEELED BUGGY ASSOCIATION OF SOUTH FLORIDA
Member Of Everglades Co-ordinating Council

August 25, 1989

Director James Ridenour
National Park Service
Washington, DC 20540

Dear Director Ridenour

In the past several months the National Park Service has initiated management decisions that are contrary to the intent of the enabling act and the legislative history of the law concerning Big Cypress National Preserve. These actions are being done through the regular process and at the encouragement of organizations who actively support the Park Service staff in these management decisions. These organizations do not support the traditional uses of properties placed under the regulator control of the NPS. Further they would prefer that this multi use area be managed in the same manner as Everglades National Park.

Just two days after the passage to S.B. 90 and P.L. 100-101, the Big Cypress National Preserve Addition states "The Act of October 11, 1974 is further amended by adding at the end thereof the following new section: Sec. 10 "The Secretary and other involved Federal Agencies shall cooperate with the State Of Florida to establish recreational access points and roads recreation areas appropriate wildlife protection, hunting, fishing, trapping and other recreational opportunities in conjunction with the creation of the Addition." The Service decided to institute extremely restrictive regulations on a temporary basis and make them permanent once they are published in the Federal Register. Further there is no logical data to support the proposed regulations. It is very clear that the Service does not plan to consider this law in its fullest meaning as being applied to the entire Big Cypress.

These proposed regulations that are now out for review are an example of the understanding the NPS has of how to manage a multi use area. Most are unnecessary and can be considered abusive over regulations.



THE WILDERNESS SOCIETY

February 27, 1990

Mr. Robert Baker
Regional Director
National Park Service
Southeast Regional Office
75 Spring Street, SW
Atlanta, GA 30303

Dear Mr. Baker:

The Wilderness Society appreciates the opportunity to comment on the Big Cypress National Preserve Draft General Management Plan and Draft Environmental Impact Statement. We understand that the DGP/EIS functions also as a basis for consultation with the United States Fish and Wildlife Service (FWS) under section 7 of the Endangered Species Act.

Our comments will focus on oil and gas operations and hunting activities in the Preserve. We will address specific concerns regarding the above-mentioned activities and their effects on water and habitat quality and on the endangered Florida panther.

OIL AND GAS OPERATIONS

OVERVIEW

The draft management plan's proposed action permits oil and gas exploration and development to influence no more than 10 percent of the preserve at any one time. Currently, 8.7 percent (38,488 acres) of the preserve is influenced by existing oil and gas development. Totaling the existing and projected oil and gas operations, 17.9 percent of the preserve could be influenced at any one time. Because that is over the 10% limit, the draft plan proposes that new development be phased in.

The Society contends that expansion of oil and gas operations is now in conflict with the mandate of PL 93-440, establishing Big Cypress National Preserve, and of PL 100-301, extending it, that the Service act to assure "the preservation, conservation and protection of the natural, scenic, hydrologic,

1. The final GMP/EIS has been revised to reflect additional information related to areas of influence associated with oil and gas exploration and development operations.

2. While the Wilderness Society correctly sets forth the National Park Service's legislative mandate, allowing additional oil and gas operations in accord with NPS regulations would not violate the resource protection standards set forth in the enabling legislation. Under the proposed plan future operations would only be permitted in the preserve if detrimental impacts to the preserve's resources could be avoided or mitigated to an acceptable level. The permitting of such activities would be in accordance with the regulations at 36 CFR 9B, the stipulations contained in the "Minerals Management Plan," and the case-by-case review and evaluation of individual plans of operations. The final GMP/EIS identifies the most critical and sensitive areas of the preserve in terms of potential impacts from oil and gas development activity. NPS reviews would ensure that proposed plans of operations conformed to applicable laws and regulations. If resource effects of a proposed operation could not be adequately mitigated, a plan of operations would be rejected.

Mr. Robert Baker
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floral and faunal and recreational values of Big Cypress watershed in the state of Florida."

The Park Service is required by law to close areas to mineral development where it would deprive natural values of the Preserve. Based on evidence the Service has developed, allowing added oil and gas operations violates the resource protection standard set in the enabling legislation.

PL 100-301, enacted April 29, 1988, calls for the promulgation, "within nine months . . . of rules and regulations governing the exploration, development and production of non-federal interests in oil and gas, and for the establishment of a minerals management office in the Preserve. Those regulations will operate in the period for which we now review the impact of the management plan, and are necessarily within the scope of an adequate EIS and of a sufficient consultation under the Endangered Species Act.

The regulations are now more than a year overdue, and no capacity has been developed within the Preserve to adequately review development plans within statutorily imposed periods. Present regulations and interim operating agreements do not protect Preserve resources to the standards required by its organic law. In the absence of the prospective rules and of demonstrated capacity to administer them, the draft plan and DEIS affords no sufficient basis for review of oil and gas development aspects of the plan, nor of impacts on the Preserve's environment and its endangered species.

Under the circumstances, The Wilderness Society cannot adequately review and comment on the GMP/DEIS, nor can other interests and agencies, nor can the Park Service.

SPECIAL CONCERNS

FLORIDA PANTHER

Big Cypress is habitat to thirty-seven animals that receive some level of protection and recognition by the State of Florida and federal government as endangered or threatened species. They include the Florida panther.

Oil and gas exploration in the preserve could imperil the continued existence of the Florida panther. Noise and other effects of geophysical operations, drilling, road construction and transportation could disrupt the panther's behavior, adding stress to its present marginal conditions.

3. The National Park Service has requested, through the budgetary process, additional staffing to establish a minerals management office at Big Cypress National Preserve, as required by Congress and as deemed necessary to review oil and gas plans of operations and to monitor compliance. For fiscal year 1991 the preserve received limited funding to implement this mandate. Preserve staff are supplemented in the plan of operations review process by oil and gas specialists at both the regional office and Washington office levels.

With respect to the promulgation of new regulations on oil and gas activities, the Park Service has been preparing a rule that embodies the specific congressional direction contained in PL 100-301 and hopes to publish the proposed rule late in 1991. In the interim the existing regulations at 36 CFR 9B and the interim agreement with Collier Resources Company, together with stipulations contained in the "Minerals Management Plan" and strategies outlined in the final GMP/EIS, would provide an adequate framework for evaluating oil and gas operations at Big Cypress National Preserve, and for determining whether they would result in significant impacts to preserve resources. Thus, the Park Service will continue to use the existing regulations until new regulations are promulgated. The stipulations contained in the "Minerals Management Plan," and the overall objectives outlined in the final GMP/EIS, would continue to be integral to minerals management in the preserve even after the new regulations were promulgated.

4. The National Park Service recognizes these significant concerns in the final GMP/EIS. The management strategies in the final document would appropriately limit human use, including oil and gas related activities, to ensure the protection and preservation of all resources and values in the preserve. The U.S. Fish and Wildlife Service was formally consulted in accordance with section 7 of the Endangered Species Act, and that agency's biological opinion concluded that the proposed action would not jeopardize the continued existence of any federally listed species, including the panther.

Mr. Robert Baker
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The behavior of white-tail deer, an important food source for the panther could also be affected by oil and gas operations. Panther, bear and other wildlife could be affected by toxic contamination of water, resulting from oil and gas operations.

WATER QUALITY

Big Cypress National Preserve contains the largest relatively undeveloped watershed remaining in South Florida and recharges shallow aquifers. It is significant to the integrity of water resources in Everglades National Park, a designated Outstanding National Resource Water in Florida's nondegradation program, under the Federal Clean Water Act and rules.

The DEMP/DEIS displays threats to water quality in additional oil and gas operations. The exploitation of oil and gas could alter wetlands through drainage or ponding and the document observes that such impacts can not be easily mitigated.

Water quality could be affected by turbidity from drilling and from driving vehicles along seismic lines. Ground water disruption from shot-hole drilling and explosions could affect water quality.

Produced waters, by-products of drilling operations, contain substances like arsenic, lead, copper and chloride, toxic to cypress trees and other flora and fauna. Produced waters are now re-injected into the boulder zone, an unconsolidated formation found between 1,800 and 4,000 feet.

BLOWOUTS AND SPILLS

The draft plan asserts that there is a possibility of a blowout occurring, most probably in unproven areas off the Sunniland trend. A blowout, an uncontrolled flow of gas or oil from the well to the atmosphere, could cause deleterious effects to water quality and wildlife.

Tanker trucks used to transport crude oil before the construction of pipelines have been involved in accidents, spilling oil and brine water into the natural system.

The risk of a spill is always present in any drilling operation. In the past seven years there have been a number of releases into the environment ranging from 10 gallons to 7,000 gallons. The cumulative effect of chronic spills and leaks into the natural system is unknown.

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ACQUISITION OF MINERAL INTERESTS

The draft provides an inadequate plan for purchases of those mineral interests that cannot be requisited to standards required for protection of the Preserve's natural values.

RECOMMENDATION

The draft must describe the extent to which degradation associated with oil and gas development under any alternative can be limited by extension of Interior's regulatory authority.

We recommend the suspension of permits and approvals for added oil and gas operations within the boundaries of Big Cypress National Preserve and the Addition, until rules and regulations to govern those activities are promulgated by the Park Service and such rules are integrated into the General Management Plan, the FIS and Endangered Species Act consultation.

We recommend inclusion of an affective plan element on the acquisition of non-Federal mineral interests.

We recommend that development of the GMP/EIS be left open until oil and gas rules are available for consideration in the context of the plan and endangered species consultation.

HUNTING
OVERVIEW

The draft plan provides for diverse hunting opportunities throughout the Preserve. This is of particular concern to the Wilderness Society in light of evidence that panthers exhibit adverse reactions to hunting and associated activities.

Hunting and ORV use are the two most popular activities in the preserve. Hunters are primary ORV users. The major game species are the white-tail deer and European feral hogs.

We believe that the Park Service is currently practicing unbalanced management that extends priority to hunting over protection of the endangered species. The draft plan asserts that the Florida panther is the most sensitive natural resource in South Florida and is on the brink of extinction. All know its population is precipitously low. Whether the proposed action or any of the alternatives related to hunting and ORV use extends to the panther the measure of protection required by law.

5. The *Land Protection Plan* for the preserve does not propose the acquisition of any specific oil and gas interests. As required by Congress, the National Park Service is prohibited from acquiring outstanding oil and gas interests unless the secretary of the interior determines that their development would result in impacts that would be detrimental to the purposes of the preserve. The need to acquire oil and gas rights would depend on the specific operation outlined in the plan of operations, including, but not limited to, the area where a plan of operations was proposed, the magnitude of the proposed operations, the operator's ability to mitigate potential impacts of the proposed operation, and finally, a determination of whether the proposed plan of operations met the approval standards of 36 CFR 9.37(a).

6. The National Park Service developed the draft GMP/EIS assuming that existing regulations at 36 CFR 9B would continue to be applied to nonfederal oil and gas development in the preserve. The Park Service is now revising those regulations to reflect the congressional direction contained in PL 100-301. The revised regulations would provide equal or greater protection for park resources and values than they receive under existing regulations.

A moratorium on the approval of plans of operation is in effect until the record of decision for the final GMP/EIS has been approved. It is not necessary or appropriate to suspend permits or approvals for nonfederal oil and gas operations within Big Cypress National Preserve. As described in responses 1 and 2 to this letter, existing regulatory and planning processes are adequate to protect resources and values at Big Cypress.

Further, the GMP/EIS process need not be delayed until the revised oil and gas regulations have been promulgated, since the revised regulations would provide for equal or greater resource protection, as outlined in the responses above. Given the numerous resource protection related items contained in the final GMP/EIS, park resources and values would be best served by expeditiously finalizing and implementing the provisions of the final plan.

7. See responses 2 and 3 to the U.S. Fish and Wildlife Service, and response 4 to this letter.

Mr. Robert Baker
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SPECIAL CONCERNS

This draft plan, which was written in 1985 and 1986, is outdated. The concept of resident population centers the plan refers to is no longer applicable. Recent evidence suggests panther activity throughout the Preserve.

As the plan describes, Florida panthers are sensitive to human intrusion into their habitat. The decline of the panther has been primarily attributed to the loss of habitat and habitat quality. Impacts of hunting are among these effects. For example, a collared panther, Number Sixteen, was tracked from the East Everglades to Big Cypress National Preserve. On the first day of hunting the cat was shot by hunting dogs, which resulted in the cat's immediate retreat back to the East Everglades. The 1989 Annual Performance Report on Florida Panther Research conducted by the Florida Game and Fresh Water Fish Commission provides two further examples of cat sensitivity to effects of hunting. The project brought seven west Texas lions to North Florida for use as surrogates in evaluating the feasibility of relocating Florida panthers to that area. The report concluded that these lions did fine prior to hunting season, but once hunting season commenced the lions were either killed or disturbed to the extent that they left their range. Another study referenced in the draft plan determined that western panthers, like the Florida panther, displayed adverse reactions to human activity even when the activity had little physical impact on the habitat.

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There is evidence requiring the Park Service to determine the effect of hunting on panthers within the plan boundaries. In addition, a comprehensive ecological study should be conducted on prey species, particularly deer and feral hogs before the proposed action is taken or any alternative is revealed. The National Park Service, recognizing deficiencies in present data, would implement proposed actions as "interim measures" pending the collection of more accurate data and development of long-term management strategies.

According to PL 91-640, hunting will be permitted as long as it is consistent with the purposes for which the preserve was established. Those purposes include the preservation and conservation of the faunal values of Big Cypress. Like the Endangered Species Act, the Preserve's organic authority requires an antecedent determination that hunting will not further degrade the panther's position in the Preserve and the ecosystem.

In light of recent evidence, the Society submits that the plan fails to demonstrate compatibility of hunting with

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8. The information on panther distribution has been updated in the final GMP/EIS, and new information on panther behavior in relation to hunting has been added.

9. The proposed action for hunting management has been developed through extensive consultation and coordination with the U.S. Fish and Wildlife Service, the Florida Game and Fresh Water Fish Commission, the Florida Panther Interagency Committee, and others to ensure the protection of the Florida panther and its habitat. As previously described, formal consultation under section 7 of the Endangered Species Act concluded that the proposed action would result in greater protection of the panther and other federally listed species.

The U.S. Fish and Wildlife Service was consulted concerning the comment that permitting under section 10 of the Endangered Species Act is required prior to the development of the GMP. They concurred with the National Park Service that such permitting does not apply to this planning effort.

Mr. Robert Baker
Page six

preservation of the Florida panther within the Preserve, and that actions proposed are likely to jeopardize the continued existence of the species. Under the Endangered Species Act, the Service is obligated in its executive actions to ensure the continued existence of the species.

Therefore, in the absence of a lawful determination that hunting in the Preserve with its related activities does not jeopardize the panther facts developed in the DMP/DEIS, the National Park Service to exist impacts on the panther and other endangered species. We conclude that the only appropriate "interim measures" are those which have such an effect.

RECOMMENDATIONS

We recommend that the Park Service promptly enter into and complete formal consultation with FWS under provisions of the Endangered Species Act. We believe that present conditions and plan alternatives result in "incidental taking", and require the development of a habitat conservation plan and the issuance of a permit under section 10 of the Endangered Species Act. We believe those determinations should be a predicate for, rather than a product of, the EIS process, and that the DMP/DEIS should be left open for review in light of the biological assessment of the plan's impact on the endangered species of the Preserve, and should be responsive to management prescriptions of the assessment, opinion, or conservation plan.

Sincerely,



Susan Lynn Berryman
Regional Associate

DEC 4 1989



THE WILDLIFE LEGISLATIVE FUND OF AMERICA
 To provide the benefits of the American Sportsman to hunt, to fish and to trap.

1000 Connecticut Avenue, N.W.
 Suite 802
 Washington, D.C. 20036
 (202) 744-9271

November 28, 1989

Mr. Bob Baker
 National Park Service
 Southeast Regional Office
 75 Spring Street, S.W.
 Atlanta, GA 30303

Regarding: Draft General Management Plan &
 Draft E.I.S. for Big Cypress
 National Preserve

Dear Mr. Baker:

For the record, the Wildlife Legislative Fund of America is submitting its official comments on the Big Cypress National Preserve Draft General Management Plan and E.I.S.

The Wildlife Legislative Fund of America (WLFA) is a national association of sportsman's conservation organizations. It provides legislative lobbying, legal defense and public education services. Through its associated organizations, the WLFA represents an aggregate membership of more than one million sportsmen-conservationists.

First, we would like to endorse the official statements submitted by the Everglades Co-ordinating Council. We concur with their comments and would like to have the record reflect our endorsement. The local residents and users have far more expertise in dealing with the specifics of the draft plan and, thus, we feel their detailed response should be given the most weight.

We have discussed the fish and wildlife management aspects with the Florida Game and Fresh Water Fish Commission staff at length and would like to express our support of their submission on these draft documents.

In general, the draft plan and E.I.S. are well written, reasonably comprehensive and, for the most part, understandable.

The WLFA is deeply concerned about several aspects of the draft plan and E.I.S. We are concerned that the National Park Service is using the planning process as a mechanism to pursue their anti-hunting

1. The proposed action has been revised to more clearly state the justification for changes in hunting management. A 50 percent reduction is not proposed.
2. See responses 1 and 2 to Florida Game and Fresh Water Fish Commission.

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1 bias. Consistently throughout these documents are requests for justifications for restricting hunting, fishing or trapping uses. Although we too would like to see the recovery of the Florida panther, we seriously question that proposed hunting restrictions will result in noticeable increases in the panther population. By your own admission the scientific community seems to agree that hunting is having little or no biological effect on the deer or wild hog populations. Why then are restrictions up to a 50% reduction in effort being targeted for the hunter?

2 It is our contention that this responsibility must first be carried by the State Game and Fish Department. We agree that the basic goals of the National Park Service should be considered by the Commission but the primary responsibility for biological evaluation and management lies with the State.

The hearing record for the Big Cypress National Preserve as well as those for massive preserves in Texas and Alaska, clearly dictate that the purpose of the Preserves is to protect habitat, natural values and local recreational and other related human values. Unfortunately, the National Park Service has chosen to interpret their new managerial responsibilities by trying to eventually create National Parks where it was clear that Congress intended for there to be a different applied management philosophy to include established human consumptive uses.

As a representative of the sportsmen community, the NPSA strongly objects to the unnecessarily restrictive position taken by the Park Service towards the sportsmen/conservationists who were strong supporters of the creation of a new concept embodied in the National Preserves.

We are convinced that lame excuses like inadequate staffing and lack of enforcement are being used as ploys to severely restrict hunting, fishing and trapping uses. We wish to underscore the comments of the Everglades Council which pointed out clearly that the philosophy of penalizing the legal user to restrict the poacher is totally irresponsible. We would encourage the Park Service to assume a more positive position of better law enforcement and cooperation with other State and Federal enforcement agencies rather than forcing the law-abiding citizen to carry the entire burden of ineffective Park Service management and enforcement.

It is the position of the NPSA that Congress intended for the levels and types of traditional uses, including hunting, fishing and trapping, to continue unless the Service could demonstrate conclusively that those uses were clearly incompatible with and detrimental to the "overall" purposes of the National Preserve.

It is also our opinion that it was the intent of Congress with the Big Cypress National Preserve and all other National Preserves to coordinate the fish and wildlife management to the maximum extent

3. See response 5 to the U.S. Fish and Wildlife Service.

4. See responses 1 and 2 to the Florida Game and Fresh Water Fish Commission.

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possible under the State's regulatory process. This should be formally recognized in the management plans and fortified with a formal agreement that commits to regulatory modifications by the Park Service only where it can be demonstrated conclusively on the record that more restrictive regulations are needed to protect the resources.

The WPA opposes the elimination of "camp" privileges for established users. We do not advocate ownership rights but we do believe some concession should be made to accommodate these uses and users.

We do not concur with proposed restrictions on uses of hunting dogs for small game and bird hunting. Properly trained dogs are no threat to other wildlife and result in less crippling losses and a higher quality hunting experience.

The WPA opposes proposed restrictions on hunting seasons at night, frogging, legitimate uses of dogs for general hunting, etc., if these uses are allowed under state law unless the Park Service can demonstrate conclusive incompatibility or adverse biological impacts.

The WPA cannot emphasize enough our grave concerns for the Service's distant disregard for Congressionally recognized established traditional uses such as hunting, fishing and trapping. The clear precedent established in this draft management plan and others prepared for Alaskan National preserves illustrates an unwavering agency intent to not manage but eliminate established legitimate consumptive uses. This arrogant attitude is an open political challenge to the many sportsman organizations throughout the country that supported the creation of these types of Federal preserves.

The facts in this management plan have not demonstrated clear resource use or management conflicts but rather philosophical conflicts with preservation oriented Park managers who refuse to accept Congressionally differentiated National Parks and National Preserves.

The whole experimental National Preserve concept appears, quite frankly, to be a miserable failure from the standpoint of protecting resource values including established resource uses. From the standpoint of the sportsman who enthusiastically and voluntarily embraced this concept, we faced with having to oppose all future legislative designations of National Preserves and pursuing Congressional clarification or alterations in existing Preserve management goals, objectives and regulations.

The WPA and the national sportsmen were hopeful that a cooperative effort would be established under the National Preserve concept. It appears, however, that the National Park Service is committed to maximum confrontation rather than cooperation.

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While the WFA clearly supports the management planning process we do not agree with the general direction taken in this plan. We request that this be entered into the hearing record and the "Proposed Action" be reconsidered to incorporate more of the sportsmen's views in the final plan.

It is our understanding that there has been an extension of the comment period. For the record, we may choose to amend our submission before the extension period ends.

Sincerely,


Ron Somerville
Director, National Affairs

cc: The Honorable Bob Graham
The Honorable Connie Mack
The Honorable Tom Lewis
Director Ridenour
Everglades Coordinating Council
Florida Wildlife Federation
Florida Game and Fresh Water Fish Commission

Collier Resources Company
 The Collier Company
 Petroleum & Minerals Division
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March 1, 1980

Mr. Robert Baker
 Regional Director
 National Park Service
 Southeast Regional Office
 76 Spring Street, S.W.
 Atlanta, GA. 30303

In care of:

Mr. Fred Fogarty
 Superintendent
 Big Cypress National Preserve
 R.R. Box 110
 Ochopee, Florida 33943

Dear Mr. Baker:

Collier Resources Company's comments in response to the Big Cypress National Preserve Draft General Management Plan and Draft Environmental Impact Statement are attached. These comments have been prepared on behalf of the many Collier family interests which comprise the mineral estate beneath the Big Cypress National Preserve.

Collier Resources Company has reviewed the draft document, the literature cited by your agency and has conducted its own field investigations so that the information and analyses presented in the attached discussion would be as factual and responsive as possible.

As representatives of the Collier family in these matters we look forward to continuing deliberations as the process of developing a general management plan and related regulations for the development of private oil and gas interests in the Preserve continues.

Very cordially yours,

COLLIER RESOURCES COMPANY

Robert D. Duncan, Jr.

RDD:edp

COMMENTS IN RESPONSE

TO

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

DRAFT GENERAL MANAGEMENT PLAN
AND
DRAFT ENVIRONMENTAL IMPACT STATEMENT

HIG CYPRESS NATIONAL PRESERVE
Collier, Monroe, and DeSoto Counties, Florida

Prepared By:

COLLIER RESOURCES COMPANY

On Behalf of:

COLLIER FAMILY MINERAL INTERESTS

March 1, 1990

1. INTRODUCTION

IDENTIFICATION AND INTEREST OF COMMENTOR

Collier Resources Company (Collier) hereby respectfully submits its commentary on the Big Cypress National Preserve (BCNP) Draft General Management Plan and Draft Environmental Impact Statement (DGMP/DEIS). These comments address both the Draft General Management Plan in the context of the Congressional mandate for management of BCNP and the adequacy of the DEIS in the context of compliance with the National Environmental Policy Act (NEPA).

Collier's interest in these draft documents springs from its' role in managing the mineral interests of the Collier families. These interests comprise over fifty percent of the privately owned mineral assets which lie under seventy-eight percent of the BCNP. While these comments address the entire General Management Plan, Collier's primary concern is accessibility over and through the federally-owned surface estate in order enjoy the benefits of its privately owned mineral assets.

ORGANIZATION OF COMMENTS

For ease of assimilation, these comments are divided into nine sections, each section dealing with a separate subject. Each section contains subsections which deal with individual topics.

Section I is the Introduction, which contains three subsections. These subsections describe Collier's interest, commentary organization and a summary of Collier's conclusions. This final subsection is further divided so as to address perceived misconceptions relative to the data utilized, the analytical techniques employed in the drafts and their consequences on proposed BCNP management policies. This exercise is, of course, undertaken within the context of the legislative goals set forth in the establishment of the BCNP. The DEIS is similarly analyzed in the context of NEPA compliance.

Section II describes the historical background necessary to appreciate the substantive comments which follow. Specifically, it provides a summary of the history of oil and gas operations in the BCNP area including applicable regulatory regimes, congressional expectations regarding future oil and gas operations within the BCNP, and a substantiation of continuing oil industry interest in the South Florida.

Section III discusses Collier's position on several fundamental concepts incorporated in the draft documents. Section III contains subsections dealing with the violation of Congressional intent, the 'Area of Influence' concept, the 'Ten Percent Impact Limit,' assumptions built into the NPS analyses of the proposed management alternatives, Collier's support for the 'Status Quo' alternative, NPS characterization of likely oil and gas development scenarios, the proposed ORV policy, I-75 access issues, the notion that certain areas be considered 'off limits' to the exercise of private mineral rights, comments on directional drilling, reclamation, and seismic operations. Lastly, Collier's contention that the cooperative use of infrastructure for oil and gas activities be emphasized.

Section IV presents some of the many legal considerations directly related to the proposals set forth in the draft documents. Specific legal issues discussed include the adequacy of the DEIS under NEPA, the authority and rationale for the policies proposed in the DGMP, the effects on future 38 C.F.R. Part 9 Subpart B permitting, integration of the BCNP 'Addition area' into the proposed policies, the taking of private mineral rights, and the congressional mandate for the publication of a final environmental impact statement prior to seismic permit issuance.

Section V provides detailed discussion as to why the various 'area of influence' zones defined in the DGMP are grossly exaggerated and detrimental to Collier interests.

Section VI contains commentary on the DEIS' estimates of the environmental consequences of the proposed action and alternatives as set forth in the DEIS.

1. To reduce repetition, the National Park Service's responses are keyed to the following detailed comments rather than to this more general summary.

Section VII provides specific commentary on the MMP. Particular emphasis is placed on the designation and evidences of important resource areas as well as the proposed access and operational stipulations.

Section VIII needs the various analyses into Collier's position regarding the NPS proposals presented in the draft documents.

SUMMARY OF CONCLUSIONS

Based on a thorough review of the draft document, the data and research upon which it is structured, and new empirical data recently collected as part of Collier's evaluation effort, Collier's conclusions as they relate to universal development are summarized as follows:

The draft documents rely upon out-of-date, inaccurate or nonapplicable data. Scientific literature is often quoted out of context or in support of considerations well beyond the scope of the original work. Indeed, the NPS demonstrates throughout the draft documents a remarkable propensity for countermanning an essential point set forth by the author of their most often quoted scientific resource, Dr. Michael Duverer, who states in the introduction to the definitive Audubon work on the BCNP that -

... it is especially important that standard simplistic - an hence artificial - evaluations be avoided. Management decisions must take into consideration how, when, and where things are done and anticipate the complicated chains of events that may result from courses of action." (Duverer, 1986)

The DCMF/DEIS presents an unrealistic portrayal of the impacts of oil and gas activities on the natural environment of the BCNP. For example, suggestions that the location and yield of previous discoveries define the limits of future oil and gas activities are simplistic as to the extent and location of oil and gas resources within the BCNP.

The predicted 'Areas of Influence' are derived using an overly simplistic and inappropriate methodology resulting in unnecessarily restrictive limits on the location and extent of oil and gas activities. This leaves the uninformed reader with an unfortunate and unnecessary alarm at the perceived magnitude of the impacts the BCNP has already suffered

as a consequence of oil and gas activities. Empirical data, including extensive information presented by Dueser (1986), demonstrates that this concern is unfounded.

- The Ten Percent Impact Limit is without factual predicate, and thus arbitrarily imposes unnecessary limits on the extent of oil and gas activities.

- The overly restrictive Areas of Influence in concert with the arbitrary Ten Percent Impact Limit and the prohibition of surface occupancy in Important Resource Areas effectively precludes access to large areas of privately owned minerals within the BCNP. While the DEIS/DEIS would theoretically allow some oil and gas activity, a practical perspective dictates that these limits on the location and extent of such activities are so onerous as to render the resource substantially inaccessible.

- Similarly, the proposed operational stipulations applicable to seismic exploration (including ORV management) are so costly compared to any industry norm that, from a practical perspective, any effort to locate the privately owned minerals within BCNP is significantly impaired.

- Designation of entire management units as 'off limits' to oil and gas activities and the overly restrictive resource protection areas policy are both factually confounding of private property rights.

- The DEIS is not currently adequate to satisfy the requirements of NEPA for a number of reasons. The complete absence of objective measurement of the environmental effects of current oil and gas activities within the BCNP alone is sufficient to demonstrate the inadequacy of the DEIS, at least for site specific decision making. The alternatives analysis in the DEIS is also inadequate. Predictions of future oil and gas activity impacts based on the historic impacts of now antiquated practices is not reasonable. This type of analogy is akin to evaluating the effects of modern laser surgery by harkening to the days when the medical profession used leeches to bleed patients. Given the long and detailed list of impact limiting conditions proposed to be applicable to what little oil and gas activity would be allowed under

the DGMF/MMP, the alternatives analysis of the DEIS is fundamentally inadequate for failing to analyze the alternatives of future oil and gas activities being conducted in compliance with current environmental planning and protection measures.

The DGMF fails to properly implement the congressional mandate in the legislation establishing the BCNP, which charges the NPS to manage the federally owned surface estate for conservation. In doing so, however, the NPS is authorized to limit access over the surface for exploration for and extraction of the privately owned mineral estate only to the extent necessary to ensure the ecological integrity of the BCNP. Absent evidence that modern techniques of mineral exploration and extraction threaten the ecological integrity of the BCNP, the NPS has impermissibly chosen, by proposing such severe restrictions on oil and gas activities, to substitute its own judgment for that of Congress in the management of the BCNP.

II. BACKGROUND**HISTORY AND REGULATORY SETTING FOR OIL AND GAS OPERATIONS IN ECNP**

The oil and gas industry and the Collier family have been in partnership for more than six decades. The history of oil and gas exploration on lands owned by the Collier family began in 1940 with an extensive oil and gas lease for 1.5 million acres granted to Peninsula Oil and Refining Company. The lease was later assigned to Humble Oil and Refining Company, predecessor to Exxon Company, which is the current oil producer in the ECNP. The 1940 lease encompassed an area that included most of the land in Collier County and portions of Lee and Henry Counties. Barron Collier acquired much of the fee interest in this acreage in 1923, a portion of which was in what is now Everglades National Park and Collier Seminole State Park. As parcels of land were sold or traded by Collier entities, substantial interest in the mineral estate was retained by the family. Within the boundaries of the ECNP, the Collier family owns more than 80 percent of the mineral assets which underlie all or some portion of 78 percent of the government-owned sections comprising the ECNP. Hence, any NPS action will substantially affect the Collier's private property rights.

Geophysical (gravity) studies were conducted during the early 1940's. Humble Oil and Refining Company subsequently drilled Florida's first discovery well in the Sumiland Field in 1948. This discovery led to further exploration activity in the Southwest Florida area by Humble and other oil exploration companies. Seismic and gravity geophysical surveys and exploration drilling in the 1950's and 1960's within the boundaries of the present-day ECNP subsequently led to the discovery of the Bear Island Field (1972) and later the Pepper Hammock Field (1978). In the early-end mid-1970s, Exxon planned and carried out geophysical (seismic) exploration that led to the discovery of the Racoon Point Field in 1978.

In the 1970's, Shell Oil Company targeted the South Florida geologic basin for exploration. Shell, through their exploration subsidiary Shell Western E&P, Inc. (Shell Western), maintains an interest in the area. Regional seismic studies underway in the ECNP

in 1988 were the subject of legal and environmental debate during May 1988 when Shell Western's permit was cancelled by the NPS. The permit authorized approximately 80 miles of seismic lines within the BCNP although only six miles were shot prior to permit cancellation.

To a large degree, the pace of exploration in the period 1948 to the mid-1970s was dictated by Humble (Exxon) since that company held much of Collier's mineral acreage by production in the Burnham Field. Exploration practices of this period were consistent with all existing environmental laws then in effect. Exploration activities leading to the Bear Island discovery took place in a heavily impacted area where agriculture, cattle grazing, cypress harvesting, hunting, camping, ORV use and water management excavations had already created an extensive network of logging roads and buggy trails. Field development in Bear Island and Racoon Point were (and still are) controlled by the Big Cypress Swamp Advisory Committee, a technical advisory group established by the Florida Governor and Cabinet in 1972. Oil field access roads in the Bear Island area were routed upon these heavily impacted corridors at the behest of the Advisory Committee. The "11-Mile Road," which provides access to the Racoon Point field, was developed under the considerably more restrictive federal, state and local environmental guidelines of the late-1970's and early 1980's, primarily the so-called BS regulations promulgated in 1978 (38 C.F.R. Part 9, Subpart E).

It is obvious that consideration of any future oil exploration activities within the BCNP should be based upon the environmental performance demonstrated by the Racoon Point Field, an oil production facility planned and constructed pursuant to the most stringent environmental guidelines and conditions in existence. Likewise, any proposed seismic activities within the BCNP should be based upon planning and operational criteria designed to meet guidelines similar to those established for Shell Western's 1988 operations. For example, guidelines should (but obviously did not) take into account the more than five years of surface impact data gathered by Shell Western both in and adjacent to the BCNP. This data conclusively

demonstrates the absence of significant or lasting environmental effects from geophysical (seismic) operations.

Oil and gas operations in the BCNP are the target of the most comprehensive and restrictive operational and environmental inspection, review and permitting demands of any locale in the United States. Experience to date indicates that each applicant in search of a seismic or drilling permit within the BCNP may be obliged to endure at least two years of application review prior to obtaining permission to conduct the requested activity. Considerations relative to seasonal wildlife behavior or hydroperiod often force the suspension of the project's timetable by an additional two to three years.

For example, for exploratory wells Federal permit applications include review activities undertaken at the convenience of the NPS, Army Corps of Engineers, Environmental Protection Agency, Department of Transportation and the Fish and Wildlife Service, all in compliance with the National Environmental Policy Act (NEPA). State of Florida permits include a drilling permit from the Department of Natural Resources, subsequent to an in-depth, on site review by the Big Cypress Swamp Advisory Committee. Additional permits from the Department of Environmental Regulation, Department of Transportation, and South Florida Water Management District are necessary following detailed application review and comment by the Game and Fresh Water Fish Commission, and multiple county planning groups. Environmental groups also have an opportunity to comment as the Florida Department of Natural Resources (FDNR) routinely informs all interested parties of pending actions.

At the local level, before actual seismic or drilling operations may begin, a final local development order must be obtained from the Board of Collier County Commissioners, whether or not the proposed activity is to take place on federal, state or privately owned land. The Board issues the order pursuant to the Guidelines for Development in the Big Cypress Swamp Area of Critical State Concern, Chapter 22F-3, Florida Administrative Code and a number of local ordinances, during a duly advertised public hearing. The Board is not empowered to issue

or deny a permit until after an exhaustive review of the application by the Collier County Environmental Advisory Council, Collier County Water Management Advisory Board, Collier County Planning Department, and the Collier County Coastal Area Planning Commission.

Undoubtedly, such procedural and substantive environmental measures enabled the 1986 Duver report to conclude, after a careful evaluation of the effects of historic oil and gas development on the lands which now comprise the BCNP, that 'the ecological impact of oil production has been minimal both in and outside the BCNP during the past three and a half decades' (page 897). Collier doubts that additional development since 1988 has changed that conclusion, particularly in light of the Duver report's acknowledgment that Florida 'enforces the most rigid oil and gas regulations in the United States' (Id. at 383). Certainly there is nothing in the DGMP that casts any doubt on the Duver report's conclusions.

CREATION OF BCNP AND CONGRESSIONAL EXPECTATIONS WITH RESPECT TO FUTURE OIL AND GAS OPERATIONS

Early in the Congressional consideration of legislation to create the BCNP, some environmental groups recommended banning all future oil and gas activities in the BCNP¹ and the NPS proposed that Congress authorize unrestricted acquisition of all oil and gas interests in the proposed BCNP.² But the Interior Department and interested environmental organizations later backed away from those positions. Assistant Secretary Nathaniel Reed stated the Department's position before the Senate Committee on Interior and Insular Affairs in 1974 as follows:³

¹See, e.g., Hearings on S.2455 before the Subcommittee on Parks and Recreation of the House Committee on Interior and Insular Affairs, 92d Cong., 1st Sess. 64 (1971) (Sierra Club).

²Hearings on H.R. 10410, H.R. 18017, and H.R. 18115 before the Subcommittee on Parks and Recreation of the House Committee on Interior and Insular Affairs, 92d Cong., 2d Sess. 23 (1972); Hearings on H.R. 46 and H.R. 4688 before the Subcommittee on Parks and Recreation of the House Committee on Interior and Insular Affairs, 93rd Cong., 1st Sess. 61 (1973).

³Hearings on S.884, S.788, S.929 and H.R. 10093 before the Senate Committee on Interior and Insular Affairs, 93rd Cong., 2d Sess. 78-74 (1974).

MR. REED. I do want to get on to the subject of surface rights versus mineral rights, which is a very important differentiation which we take exception to in the House bill. There is the possibility of continuing oil exploration in this area which the House bill interferes with by not clearly delineating surface rights from mineral rights and that surface rights from mineral rights and that differentiation, if you go to the root of legislative taking, should be clarified.

SENATOR JOHNSTON. Do they think there is a good chance of there being oil in that area?

MR. REED. To the north of it they have been working for 20 years and have a pipeline right across the Everglades to the refinery in Fort Lauderdale and the holding tanks there. There is a possibility that there is room for continued exploration in the northern part. A great deal went on in the late forties and fifties in the northern part of the Everglades National Park and the southern streams of the Big Cypress. That did not bear fruit.

SENATOR JOHNSTON. You say there is a distinction in the House bill. Do you think we ought to acquire the mineral rights?

MR. REED. No, sir, I think you ought not to acquire the mineral rights, but I do think you ought to acquire the surface rights and the federal owners and the owners of the mineral rights can work together cooperatively to allow drilling to continue at the same time, allowing it in a most environmentally sensitive way. We have done it before, at Padre Island National Seashore, and have [propped [sic] it for the Big Thicket.

MR. JOHNSTON. And the House bill fuses up that question?

MR. REED. Yes, sir, and we want to point that out to you. In case of taking, sir, I would like to point out that we do not support legislative taking, but if the committee goes ahead with the taking provision we believe the subsurface mineral rights should be excluded from that taking specifically the oil and gas mineral rights.

After witnesses for the interested environmental groups recommended that Congress should "not include the oil in the legislative taking and make sure the Secretary has the

authority to regulate,⁴ Senator Johnston followed up on that issue with an oil company witness:⁵

SENATOR JOHNSTON. We haven't heard anything yet today to justify the expropriation of mineral rights. Our environmental friends essentially support your position, as I understand it, under Interior regulations that would prevent your exploration from doing environmental damage. I just can't imagine why the House put it in.

MR. BYBEE. We can't either, and that is why we are before you today to make sure that this is remedied in any bill that you would consider.

SENATOR JOHNSTON. We would, I am sure, want to be sure Interior puts in all proper rules so that we don't spend all this Federal money and have it all to naught because of exploration activities, but I know exploration can be carried on consistent with sound environmental management and I think the environmental groups are satisfied that Interior can apply such regulations. Am I correct on that?

MR. BYBEE. Oh, yes. And as you know, the oil industry has operated compatibly on Federal lands for many, many generations in the National Forests and federally created lands in the Rocky Mountain area. There is a major oil field at the Arkansas Wildlife Refuge where the whooping cranes spend their winters. The oil and gas exploration there is compatible. And we operate under Interior Department rules and regulations everywhere, of course. Also I might mention to you that currently and for the past 25 years we have been operating under rules and regulations set out by the State of Florida and they regulate our operations in the Big Cypress area. I would also like to mention that in 1971 Governor Askew and his entire staff held a 2-day hearing on whether or not there should be oil and gas exploration in the Big Cypress, and after this 2-day hearing and all the testimony they said:

These situations demonstrated that almost 80 years of oil exploration and production in the Big Cypress area has had no known significant adverse effect on the ecology of the watershed.

So I am here today to urge you to put language in which would clearly allow the minerals to not be taken by the Federal Government.

⁴Id. at 123.

⁵Id. at 188-200.

SENATOR JOHNSTON. I would be reasonably confident that would be the sense of the committee, Mr. Bybee, in assuring at the same time that Interior applies rules that will protect this watershed and the environment from damage that can be done.

The Senate Committee accepted the Department's recommendation and reported out H.R. 10088 after having modified the acquisition authority by prohibiting condemnation of all improved residential and commercial property, including mineral estate, but not including limestone, unless such property is threatened with or subject to a use detrimental to the Preserve.⁶ That restriction on the Secretary's authority to acquire mineral interests was ultimately enacted as part of section 1(c) of the Act of October 11, 1974 (P.L. 93-440, 88 Stat. 1268, 16 U.S.C. §698f(g)) as follows:

No improved property, as defined by this Act, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the Preserve.

⁶S. Rep. No. 88-1126, 88th Cong., 2d Sess. 7 (1974).

III COLLIER POSITION STATEMENTS

THE DRAFT GENERAL MANAGEMENT PLAN VIOLATES THE CONGRESSIONAL INTENT IN THE BIG CYPRESS NATIONAL PRESERVE ACT

As shown above, when creating the BCNP Congress rejected proposals to ban future oil and gas activities in the BCNP and declined to authorize the NPS to acquire private oil and gas interests beneath the BCNP. The legislative history shows clearly that in creating the BCNP Congress relied upon assurances from the Secretary of the Interior that oil and gas exploration and development activities would be continued in the BCNP under a "cooperative" basis wherein proposed projects would continue to be evaluated on a site specific basis pursuant to the existing regulatory regime as well as regulations to be developed by the Secretary.

Underminingly, the DGMP would abandon the Secretary's commitment to Congress in two significant ways. First, despite all assurances that the DGMP is designed to facilitate reasonable exploration and development of private oil and gas interests, it would flatly prohibit any oil and gas activities in approximately 80 percent of the BCNP. Table 3 presents Collier's estimate of the percentage of area off-limits to seismic operations by the proposed action. Table 2 presents Collier's assessment of the area rendered off-limits to roads and pads by the proposed action.

The DGMP would also restrict such activities in the remainder of the BCNP by jettisoning the present cooperative federal-state-level regulatory regime and imposing (1) a new, ill-considered, arbitrary "Area of Influence" concept and (2) draconian restrictions on Collier's access to and potential development of its retained oil and gas interest.

The lack of support for these proposed radical departures from traditional regulation and the Congressional intent in P.L. 98-440 is the focus of the comments which follow.

⁷Such regulations were subsequently promulgated in 1978 (43 Fed. Reg. 57826, 58 C.F.R. Part 8, Subpart E) and reportedly will soon be the subject of proposed rulemaking to revise them.

2. The purpose of the GMP is to provide a framework for future actions regarding resource management and general development. These management proposals must take into account not only the enabling legislation and its legislative history but also more recent legislative requirements governing management of the preserve.

The National Park Service will use both the guidance of the GMP and a site-specific review based on the regulations at 36 CFR 9B to evaluate proposed oil and gas projects. This evaluation will determine whether the proposed project would result in detrimental impacts to the resources and values of the preserve.

3. Revisions included in the final GMP/EIS would provide for reasonable access to all of Big Cypress National Preserve for geophysical exploration purposes. Likewise, up to 86 percent of the oil and gas under Big Cypress National Preserve would be recoverable, assuming the best available technology was used. Most of the area that may be inaccessible for drilling and production lies in the southern portion of the Stairsteps unit. This area is comprised of fragile and important resources, namely marshes, mangrove forests, Cape Sable seaside sparrow habitat, and bald eagle nests. Restrictions on drilling and production in this area are deemed necessary to protect and preserve these sensitive resources in Big Cypress National Preserve, as well as sensitive resources in Everglades National Park.

The National Park Service believes that it has provided for reasonable access to nonfederal oil and gas rights. It should be noted, however, that legislation authorizing the preserve does not state that oil and gas activities would be given priority over other uses of the national preserve. Rather, the National Park Service must ensure that park resources and values are protected; other uses of the park may be accommodated so long as protection of park resources and values is not compromised.

4. The area of influence concept is not new. Its use is widely practiced in the field of environmental protection. The concept is known by different names in various fields and in different regions of the country. While not specifically mentioned by name, the general concept is used to evaluate proposed oil and gas projects under the regulations at 36 CFR 9B.

The area of influence concept has been previously employed by the U.S. Forest Service in assessing the impact of proposed oil and gas drilling

TABLE 1
OUTLIER AREAS UNDER OIL
AND GAS PROSPECT ACTION
AREA OFFLIMITS
TO SEISMIC EXPLORATION

UNITS	EST. %	REASONING
BEAR ISLAND	100%	*Incomplete survey coverage possible for large area mapping *Stipulations 14, 16, 17, 20, 24 specifically impact field operations *Stipulations preclude cross-country surveys
DEER LAKE	100%	*Incomplete survey coverage possible *Stipulations 14, 16, 17, 20, 24 specifically impact field operations *Stipulations preclude cross-country surveys
TUBNER RIVER	75%	*Incomplete survey coverage possible *Stipulations 14, 16, 17, 20, 24 specifically impact field operations *Stipulations preclude cross-country surveys
CORN DANCE	75%	*Incomplete survey coverage possible *Stipulations 14, 16, 17, 20, 24 specifically impact field operations *Stipulations preclude cross-country surveys
LOOP	75%	*Incomplete survey coverage possible *Stipulations 14, 16, 17, 20, 24 specifically impact field operations *Stipulations preclude cross-country surveys
PTAUBERTS	50%	*Incomplete survey coverage possible *Stipulations 14, 16, 17, 20, 24 specifically impact field operations *Stipulations preclude cross-country surveys
BURNLAND TREND AREA	100%	*No survey coverage possible for large area (vroad) mapping *However if any field delineation seismic surveys can be conducted *Stipulations 14, 16, 17, 20, 24 specifically impact field operations

EXPLANATIONS:
(14) No Operations in Areas Susceptible to Degradation
(16) Trails Only
(17) Non-Motorized Operations Only in Deep Laks, Loop or Other Undisturbed Areas
(20) No Vegetation Cutting in Important Resource Areas, No Cypress Cutting or Thinning
(24) No Shot Holes in Important Resource Areas

operations on the whooping crane and grizzly bear within the Bridger-Teton National Forest (Forest Service 1987), and by the National Park Service in defining environmental impact thresholds for select habitat types, as related to mining activities, within Denali National Park, Alaska (NPS 1990a).

The concept has been refined and revised in the final GMP/EIS (see appendix B), based on a review of additional information, published scientific papers, and public response to the draft plan. Such revisions and supportive information reflect a more definitive influence area for the various types of oil and gas operations that currently exist, and will likely occur in the future, within Big Cypress National Preserve.

In terms of access and development restrictions, the National Park Service believes that the management strategies defined in the proposed plan, stipulations presented in the "Minerals Management Plan," along with case-by-case reviews of plans of operations in accordance with the regulations at 36 CFR 9B, reflect a reasonable approach to preserving and protecting nationally significant resources while providing for exploration and development of oil and gas in Big Cypress National Preserve.

Finally, the Park Service does not believe that the GMP results in the jettisoning of the present cooperative federal/state/local regulatory regime because the regulations of each of these levels of government will continue. At the federal level, the Park Service has been and will continue to be guided by the regulations at 36 CFR 9B. (See also comments from state and federal agencies contained within this section).

TABLE 3
COLLIER ASSIGNMENT OF
NPS PROPOSED ACTION
AREA CATEGORIES
FOR SUBMITTERS

UNITS	PST. %	REASONS
BEAR ISLAND	100%	*Bear Island stipulations *Directional drilling not cost effective from existing infrastructure *Incomplete field coverage for required well spacing *Important Resource Area Coverage > 80% *10% limit stipulation extended
DEEP LAKE	80%	*Important Resource Area Coverage > 80% *Incomplete field coverage for required well spacing
TURNER BEVER	60%	*Important Resource Area Coverage > 80% *Incomplete field coverage for required well spacing
COBY DANCE	70%	*10% limit stipulation would increase abandonment ceiling for new fields *Important Resource Area Coverage > 80% *Incomplete field coverage for required well spacing
LOOP	60%	*Important Resource Area Coverage > 80% *Incomplete field coverage for required well spacing
STAUBETERS	60%	*Cape Bible Sperrree *Important Resource Area Coverage > 80% *Incomplete field coverage for required well spacing
BURNLAND FRIEND AREA	80%	*Important Resource Area Coverage > 80% *Incomplete field coverage for required well spacing *Difficult to join supports because of failure pattern of old gravel platelets

* 100% of remaining acreage is well

AREA OF INFLUENCE CONCEPT

The 'Area of Influence' concept has been developed by the NPS in an effort to quantify the impacts of oil and gas exploration and production activities in the context of the area of the BCNP impacted by such activities. The admittedly arbitrary, "not-to-exceed" limit of 10 percent of the total BCNP was established for the "Proposed Action." Later discussions of the Status Quo Alternative and Alternatives 'A' and 'E' rely on comparisons with criteria established for this concept. Appendix B, 'Area of Influence for Oil and Gas Development and Acceptable Level of Development' of the DGMP discusses the methodology, cites the references and rationale for establishing impact limits, and in Table B-4 summarizes "Influence Distances." The "generalized area of influence for all criteria" was then established at 0.5 mile from oil and gas operations.

Table B-4: Area of Influence Distances Established for Each Criterion

Criterion Name	Area of Influence Distance	Justification
	2 miles	Application of U.S. Forest Service guidelines, use of ambient noise data from other national park system units, use of Exxon noise study at BCNP
Visual Quality	0.5 mile	Based on a review of visual distances through different vegetative communities and locations in BCNP
Hydrology	600 feet	Based on monitoring hydrological changes at active and abandoned roads and pads
Water Quality	1,000 feet	Based on the 1994-88 NPS study conducted at BCNP (NPS, Roy et al, 1987), and the conservation area SA spill
Odor	1 mile	Based on staff observations at Theodore Roosevelt National Park
Vegetation and Soils	1,000 feet	Vegetation and soil impacts relate very closely to water quality and hydrology. Since an example is available for water quality effects, that distance was also used for vegetation and soils

5. The final document has been revised to reflect additional information related to areas of influence associated with oil and gas exploration and development operations. The best available scientific information shows that adverse environmental impacts associated with active oil and gas operations, particularly in terms of disturbance to wildlife, extend beyond roads and pads. The area of influence for all active and abandoned oil and gas operation sites has been revised to reflect different areas of influence, depending on the nature and type of operations. The revised area of influence is contained in the final GMP/EIS. Details of the area of influence concept are contained in appendix B.

6. Applicable scientific research and NPS field observations referenced in the document show that current impacts, except for abandoned geophysical survey lines and areas where former access roads and pads have been restored to a natural topographic grade, extend beyond the footprint of the current sites.

Since air quality effects relate to the odor criteria, that distance was used for air quality as well

Since effects to wildlife are directly related to general human disturbance criteria (noise, sight, odor), a combination of those criteria was used to establish the wildlife zone distance

Impacts to visitor use and perceptions relate to many of the above impact criteria, particularly sight, odor, and noise; not a quantifiable distance for BCNP without a visitor survey.

Visitor Use/Perceptions Name established

Collier staff and consultants have reviewed the methodology, criteria, and cited references presented in Appendix B from a technical perspective and have determined that this approach does not accurately depict the real conditions and actual impacts present in the BCNP. Collier retained the Florida environmental consulting firm of Law Environmental, Inc. to conduct a thorough literature review of the concepts presented in Appendix B and independent field investigations. The Law report (1990) is referenced throughout this commentary.

5 Collier's research and field investigations show that the magnitudes of the various Areas of Influence is greatly overstated, resulting in an over-dramatized, artificial picture of the environmental impact of oil and gas operations. (Specific references to each of the significant criteria are presented in detail later in these comments.) Quite to the contrary, it is evident that actual impacts of current oil and gas operations beyond the limestone roads and pads are nonexistent. Indeed, Collier's conclusions reinforce and refine those presented by Doever et al.

6 Collier concludes that current impacts are essentially limited to the "footprint" of current sites and given proper restoration following cessation of activities, these sites are expected, in Collier's opinion, to result in no residual or significant cumulative impacts.

7
 There are two basic flaws in the DGMP's 'Area of Influence' calculations. First, the calculation of the BCNP lands presently impacted by oil and gas development is erroneous. Lands that were impacted initially and extensively by other activities, such as agriculture and timbering, are improperly treated as impacted solely by oil and gas development. Nevertheless, these road impacts are charged to oil and gas development. Second, the estimated areas of impact which are properly charged to oil and gas activities, both for individual projects and the overall, are substantially overstated (Law, 1980).

8
 The Duerver et al. (1988) report and Law (1980) confirm the minimal impacts of oil operations. The original Duerver et al. study in 1978 was republished in 1988 with updated contents figures, and cited literature. Audubon's work was...

conducted under a contract from the National Park Service, the work was designed to provide a foundation upon which to develop a Preserve management plan by evaluating the breadth, detail and accuracy of available data on the preserve's resources and their current condition and use. Since it became a compendium of valuable information on wetland systems, the report proved to have much wider appeal than was originally anticipated. (Introduction, 1988)

The comments and conclusion were a fair assessment of most of the aspects that were later considered in the DGMP. For example:

In summary, it appears that oil well pads and roads, when removed, do not represent a long-term obstacle to the recovery of native vegetation in the Big Cypress. This is true even where no replanting is done. Actually, the area impacted by oil well activity is a very small percentage of the preserve, and it appears that the impact under present conditions is not very serious. The oil companies have been very cooperative and seem to be making a sincere effort to minimize environmental damage. (pages 378-74)

THE TEN PERCENT LIMITATION

Collier explains in Section IV of these comments why the DGMP's proposal to limit oil and gas activities to a level that will not 'influence' more than 10 percent of the BCNP at

any one time violates the BCNP act and is otherwise unlawful. The use of ten percent as a cumulative impact 'cap' is also unsupported by any data presented in the DGMP, which simply

7. The area influenced by past and current oil and gas operations has been recalculated, using the applicable influence radius distances presented in appendix B; the final GMP/EIS has been revised to reflect the new calculations. We acknowledge that select access roads to oil fields may have been initially cleared for agriculture and timbering purposes; however, such roads have been substantially improved and elevated with limestone fill material to provide for all-weather travel, therefore resulting in additional impacts to the resources and values of Big Cypress National Preserve.

8. See responses 5, 6, and 7 above.

9. The National Park Service does not believe that the imposition of a percentage limitation departs from the current regulatory regime (36 CFR 9B) designed to carry out congressional intent. In fact, the requirements at 36 CFR 9.36(d) state that a proposed plan of operations must address park planning documents.

The concept of a percentage limitation is a planning tool used under the GMP planning process, whereas the regulations at 36 CFR 9B are intended to assess project-by-project impacts and to determine appropriate mitigation measures, if feasible or necessary. The planning tools used under the GMP process are not being substituted for the regulatory process. In actuality they have been and will continue to be used in a complementary manner since they perform different functions.

10. The text has been modified to indicate that development above this level could present a detriment to resource values in the Bear Island unit. Proposals for development in Bear Island would be evaluated, taking into account the requirements of 36 CFR 9B and other applicable legal and regulatory requirements. We believe that adequate information exists upon which the National Park Service can evaluate actual and potential impacts from mineral extraction activities. Indeed, such discretion is given to the secretary of the interior under the preserve's enabling legislation. Additional clarifications have been made to appendix B, based on evaluations of more recent area of influence information.

states that "...this limitation is presented as a reasonable management decision to preserve and protect resource integrity while providing for oil and gas exploration and production" (page 889). However, observations obtained from the field show that the resource integrity of both Bear Island and Haccoon Point are, in fact, not stressed. Certainly, the Dwyer report did not find the impacts of historical oil and gas development to warrant any such arbitrary limit.

The DGMF admits that the "total area committed to oil and gas development, in terms of direct impact and adverse influence, is at present a policy question" (page 888). Based on the efficiency of the existing regulatory regime and field studies on the impact of existing development, Collier believes that no percentage limitation on development is either needed or appropriate at this time, especially in light of the frontier nature of development work along the Sunnifield Trend.

The imposition of the ten percent limit has no legal basis in Collier's opinion because it simply exceeds what Congress intended and intended when it acted.

Interior applies rules that will protect this watershed and the environment from damage that can be done."

For no other valid reason other than to ensure a "year of 'no' decision matrix governed by a percentage calculation, the imposition of a ten percent limit, or any limit for that matter, is a departure from the regulatory regime (36 CFR 9B) which has accomplished what Congress intended.

"How much is too much" is, indeed, an important and complicated question as it relates to future oil and gas development. Collier does not purport to know at what point oil and gas development could be considered to be "detrimental to the purpose of the RCNP" nor

does the NPS, as it concedes. Collier is convinced, however, that current development contrary to the DGMF assessment (page 889), does not pose a risk to the preservation of resource values and maintenance of ecosystem integrity in either Bear Island or Haccoon Point. Collier's field studies show that both areas are well below any critical threshold of detrimental environmental impacts, i.e., that the actual areas impacted by (1) the Carr Dwyer Unit by the Haccoon Point

Field is 0.2% (rather than the DGMF figure of 10.8%) and (2) the Bear Island Unit by the Bear Island Field is 0.2% (rather than the DGMF estimate of 30.8%). The difference in the percentage between NPS methodology and the actual area of impact demonstrates the dramatic effects of the mathematical inflation caused by NPS "Area of Influence" methodology.

Collier supports the "Status Quo" alternative for future oil and gas development. Since each development site and the environmental resources surrounding it are unique, Collier believes the more thoughtful approach is to consider approval of proposed development on a "case-by-case" basis. In such a process the knowledge gained from impacts generated from existing development sites can be used to judge the impacts for future sites, while taking site specific conditions and advances in technology into account. That process exists today under the 35 CFR 9B rules and the environmental impact analysis requirements of the National Environmental Policy Act.

Collier does not foresee "rapid fire" development of vast areas of mineral interests. Again, the current reality of the petroleum industry precludes this possibility from a practical standpoint. Collier would suggest that following completion of its geological assessment that discussion with NPS take place and focus on a master development plan which is compatible to all interested parties.

COLLIER SUPPORTS THE STATUS QUO ALTERNATIVE - CONTINUANCE OF THE PRESENT REGULATORY SYSTEM

After careful review and analysis of the various alternatives for oil and gas activities presented in the DGMF, Collier has determined that the Status Quo alternative is the only one reasonably acceptable in light of Collier's legal rights and plans for mineral exploration and development. In this regard, the DGMF's characterization of this alternative as providing "a limit on oil and gas exploration and development activities" (page 154) is grossly misleading.

Not only is there a practical, economic limit on established exploration practices as a result of permit conditions that were put in place when Recon Point Field was developed in the early 1980's and when Shell Western conducted geophysical seismic testing in 1988, but even more

11. An analysis of proposed developments is required on a case-by-case basis under 36 CFR 9B. In addition, the National Environmental Policy Act and its implementing regulations require an analysis of direct, indirect, and cumulative impacts of implementing plans or proposals. As required, cumulative impacts are addressed in this final GMP/EIS.

NEPA documents prepared on each proposed plan of operations will consider new information on environmental impacts and advances in technology.

12. The word "limit" has been changed to "influence threshold" to more accurately reflect the actual effect of the status quo in comparison to the proposed action.

13.

The National Park Service believes that surface water flows in the southern preserve and Everglades could be potentially altered due to access road and pad construction in the Stairsteps unit. A primary purpose for the establishment of Big Cypress National Preserve was to provide for the preservation, conservation, and protection of the hydrologic values of the Big Cypress watershed.

14.

The text has been modified to reflect that all of the preserve, not just the southern Big Cypress and the Everglades, is subject to spills or leaks from petroleum operations. Even though there may be considerable debate on what amount of oil or other contaminating substance lost to the surface environment constitutes a spill of "appreciable magnitude," it must be recognized that spills have occurred and environmental effects have resulted from those incidents. The National Park Service agrees that recent operational changes may reduce the probability of spills within Big Cypress National Preserve. However, the fact remains that accidents do occur, and such operational changes do not preclude spill events.

Table 19 in the draft GMP/EIS (table 22 in the final) is a summary and must be read in conjunction with the text of the document concerning water quality effects.

stringent limits are contemplated by the proposed operational stipulations for geophysical operations and drilling and production activities contained in the proposed MMP.

In addition, compliance with the National Environmental Policy Act will require an analysis of the cumulative impacts on the BCNP of future exploration and development proposals. If at some point those cumulative impacts are determined to pose a threat 'detrimental to the purposes of the BCNP,' it will be time to consider whether such projects could be deferred or whether it would be appropriate for the NPS to recommend acquisition of the affected oil and gas properties to Congress.

NPS notes in Table 19 - "Surface Water Flows" "Southern BCNP and Everglades potentially subject to surface water flow alterations due to oil and gas development". Extensive review of all BCNP stations, scientific field observations, and staff experiences states that this conclusion is erroneous. For example, Big Cypress Swamp Advisory Committee permit conditions under which the Raccoon Point Field was developed to preclude surface flow impacts by curbing and flow-parallel road and pad alignment. For the same reasons, displaced water and sheet-flow impediment are "non-issues" because of the low surface gradient and extremely slow sheet-flow rate in the BCNP.

Other than exception to the NPS supposition stated in Table 19 - "Water Quality" that Southern Big Cypress and the Everglades are subject to "spills or leaks from petroleum operations". It has not been demonstrated that spills or leaks of any appreciable magnitude have occurred in the BCNP as a result of current oil and gas production. The few minor spills that have occurred were remedied quickly with no lasting effect. The often cited 1980 Andytown pipeline spill in WCA 3 (well inside the BCNP) was contained by surrounding vegetation and cleaned up immediately with no measurable impact. BCNP-wide operational changes relative to closed system, above-ground fluid storage, and crude oil transportation effectively preclude the probability of any appreciable 'spills or leaks' in the future.

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The implications on Table 16 that marshes, mangrove forests and old growth pinehlands would be subject to interfered oil and gas development should have action be taken other than that proposed by the NPS is simplistic and unnecessarily alarming. The history of BCNP oil and gas activities demonstrates that the only marshlands ever impacted were impacted prior to the existence of the BCNP. Mangrove areas have never been impacted by oil and gas operations in the BCNP. Historical Big Cypress Swamp Advisory Committee location analysis and siting practices dictate that oil and gas development would not be allowed in either of these areas even in a 'status quo' situation. Oil and gas operations in and around old growth pinehlands have been demonstrated to have had minimal impacts on this resource area. The 'important resource status' of these pinehlands derives from their function as a wildlife habitat, particularly for threatened and endangered species. There are no measurable impacts on the Florida Panther, Red Cockaded Woodpecker, or White-tailed deer population as a result of oil and gas activities in the Racoon Point and Bear Island areas.

CONSIDERATION OF OIL AND GAS DEVELOPMENT SCENARIOS

For purposes of discussion, the DQMP has developed an oil and gas scenario for the next 15 years (pages 93-98, 101). While Collier does not fully understand the method of analysis or the findings, we do find fault with the absence of alternate scenarios as a result of the NPS's arbitrary limiting of activity. Collier is more optimistic in its outlook. Absent unfavorable economic conditions, Collier feels that a higher level of activity could be a more probable reality.

The NPS projects that 31 wells could be drilled to develop three new fields which would yield 15 to 20 million barrels of recoverable oil under reasonable production conditions. Our more optimistic view is that there is an excess of 100 million barrels of oil to be discovered. The number of undiscovered fields will ultimately be a function of the number of wells drilled and the geologic information gained that refines the geologic model of the South Florida Basin. Yet, areas in the BCNP under which the Collier's own internal needs are still categorized as

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15. Table 19 in the draft GMP/EIS (table 22 in the final) is a summary. For a complete description, the specific impact topics in the "Environmental Consequences" section must be examined.

16. The historically based oil and gas development scenario, summarized in the status quo alternative and table 11 in the draft GMP/EIS (table 14 in the final), was developed early in the planning process in 1985. Because many of the inputs can vary over a range of values, the National Park Service presented the method of scenario development, the input values, and the results to the Florida Department of Natural Resources and the Florida Petroleum Council in August 1985. The National Park Service also mailed the same information to the Collier, Exxon, and Hughes Eastern companies one month later. Both the presentations and the mailings solicited specific suggestions for modifications. Collier's response at that time indicated that they generally believed that the Big Cypress area may be more productive than projected by the NPS scenario, but no specific changes were offered either to adapt the method of scenario development or the input values. Therefore, the scenario presented in the GMP's status quo alternative is the same as the historical scenario presented to Collier in 1985. The text has been further clarified to indicate how the scenario was developed. The scenario presented is based on the best available information. However, the National Park Service recognizes that differing "optimistic viewpoints" are common in the oil and gas industry concerning available oil resources to be discovered. The Park Service would be pleased to review any additional data indicating potential reserves.

"travels" by experimentation, meaning the geologic model is still in the formative stages of development. Whether or not that model is developed in a reasonable timeframe is dependent upon timely experimentation. Collier is in the process of conducting geologic studies over south Florida that will be the basis for evaluating future explorative activities. A master exploration plan for Collier outlined coverage in the BCMP will be available by late 1994.

ORV POLICY

The DGMP proposes to prohibit or severely restrict ORV use in certain areas and would apply this general policy not only to recreational use of ORVs, but to ORV use in oil and gas exploration and development. Although the DGMP statement that is restrictive ORV policy is "directed" by PLEB-440 and Executive Order 11644 and 11689 with respect to "recreational activity" (page 45) is accurate, the further assumption is that the ORV policy embodied in the referenced restrictive orders must be applied to ORV's involved in accessing private mineral rights in BCMP (pages 45-46, 48) is in error. The preamble to E.O. 11644 makes it clear that it was directed to recreational use of ORV's (37 Fed. Reg. 2877, emphasis added).

An estimated 5 million off-road recreational vehicles-motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles and others-are in use in the United States today and their popularity continues to increase rapidly. The widespread use of such vehicles on the public land-alien for legitimate purposes but also in frequent conflict with wild land and resource management practices, environmental values, and other types of recreational activity-has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

Although the definition of "off-road vehicles" in the executive order is not restricted to recreational vehicles, it should be read in the context of the problem which the order was designed to address. Furthermore, the exemption of "any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract" obviously was designed to permit Federal agencies to establish special controlled access for the use of private property holdings within Federal land management units. In this regard the DGMP appropriately gives special consideration or exemptions to owners of full fee holdings (pages 45 and 46), and grazing leases (page 46), presumably under the referenced exemption. Collier

17. The text has been modified to clarify the applicability of ORV restrictions to recreation vehicles. The use of ORV vehicles in oil and gas exploration and development would depend on a specific review of plans of operations, appropriate stipulations, and the use of best available technology.

18. Under the proposed action ORV access for all uses would be controlled, whether for recreation, access to inholdings and grazing leases, or access for mineral surveys or other operations. To protect resource values, no user group would have unlimited or uncontrolled ORV access. The proposed action is neither arbitrary nor discriminatory and is in keeping with the legal authorities of the National Park Service, as cited in the plan.

19.

The I-75 access plan recognizes that an agreement exists for access availability between the Florida Highway Department and the Collier Company. Specific plans of operation would further specify access use within the preserve boundaries. The reference in the final GMP/EIS has been revised accordingly.

believes that its legal right and practical need for access to its mineral interests is clearly of equal dignity with those interests and should be regulated independently of general ORV recreational usage in the BCNP. To discriminate against owners of mineral interests who are owners of grazing or other surface property rights would clearly be arbitrary and unlawful.

Collier requests that specific recognition be given the oil industry vehicles designed to meet Florida Department of Environmental Regulation ground pressure conditions. This should include specific allowance for special purpose tracked vehicles similar to those used by Shell Western.

DENIAL OF COLLIER'S ACCESS RIGHTS OFF I-75

The DGMF states that "...the only issue addressed in the general management plan is providing recreational access off I-75, within the original BCNP" (page 17) and that "no ORV access would be proposed for the I-75 corridor within the BCNP boundaries" (page 48). The rationale stated for this proposed action is to minimize impacts on the Florida panther because ORV access points would tend to encourage and concentrate human activity, (Id.) even though oil operations would be allowed in known panther areas under the proposed action. Collier believes the final GMP/EIS should address the issue of I-75 access for oil exploration activities and clearly differentiate between recreational ORV activities and ORV activities that may be required for oil exploration.

The facts are clear that vehicle access for oil and gas operations, including seismic, exploratory drilling and production activities, will be required from I-75 in the future to carry out Collier's mineral development plans. The I-75 access issue has been defined and addressed in all negotiations with the Florida Department of Transportation and the Federal Highway Administration, as well as in the negotiations involving the United States' acquisition of the Preserve Addition. To be sure, Collier would not have asked the time and trouble to negotiate such rights if it did not intend to use them.

Negotiations between Collier interests and the Florida Department of Transportation for mineral access began in the early planning stages for I-75 even before the creation of the BCNP. The process was completed just as when Collier interests decided a strip of land parallel to SR 84 to the Florida DOT in December 1987 for the construction of I-75. The land transferred included segments in what is now the BCNP and also in the Preserve Addition. The deed from Collier to the Florida DOT contains specific agreements as to the rights of Collier interests to gain access to adjacent lands for the purposes of oil and gas exploration and identifies specific access points, as follows:

Florida DOT specifically agreed to the oil exploration terms called out in the deed's mineral reservation which excepted "all oil, gas and mineral rights, provided, that the rights of ingress and egress to and from Interstate 75 for the purpose of exploration for and production and removal of oil, gas, and minerals on and under the above described lands and contiguous lands of the Grantors shall be provided to the Grantors, their heirs, successors and assigns under the terms and conditions set forth in Exhibit A attached hereto."

A maximum of seven access points "which coincide with currently existing roads," were listed in the exhibit accompanying the deed. It was further recognized that the actual placement of these seven access points which would be allowed between Milepost 80 and 89 would be located with consideration of "conditions in effect at the time the access point is to be utilized." The clear intent in all negotiations was that seven access points would be provided even in the event that the trails and roads specifically listed went out of existence because of the limited access requirements of the highway.

Three types of access are stipulated to be provided by the Florida Department of Transportation (at Department expense). For geophysical exploration, no road construction is required and access will be gained through a locked gate placed in the limited access fence. Well exploration access will be gained via a laserrock turnout and a gate in the limited access fence. Production and transportation of oil will be provided for by the construction of access/production lanes and connections as required with access through a gate in the

limited access fence. Security is to be provided for the locked gate by the permittee for the activity. Collier believes that the model for 178 access would be similar to the provisions for the 11-mile road off U.S. 41. Collier's existing legal rights of access off of 178 must be recognized in the final GMP/ESR.

SOFT LIMITS AREAS

The proposed action would preclude all access to any areas designated as "Important Resource Areas" for exploratory drilling and minerals production (page 58). A number of other aspects of the proposed action amount to de facto designations of additional areas as "off-limits" for routine mineral exploration and production activities. For example, the Bear Island stipulation (page 88) (permitting oil and gas operations in the Bear Island Unit only on existing roads and pads with no additional surface disturbances) would clearly render the entire unexplored/undeveloped mineral resources within the Bear Island Unit "off-limits" to the private owners of these minerals. In similar fashion, proposed seismic operations stipulations numbers

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20. The level of exploration and production activities in the Bear Island unit has been revised. Operations would be permitted so long as (1) important resource areas were protected as described in the revised stipulations, (2) operations did not exceed the 10 percent influence threshold, and (3) the area of direct impact did not exceed the current acreage of unreclaimed roads, pads, pipelines, and geophysical survey lines (173 acres). Under the revised proposal virtually all of the minerals in the Bear Island unit would be accessible to private mineral owners.

21. The referenced geophysical operation stipulations in the "Minerals Management Plan" (appendix C) have been revised. The revised stipulations are reasonable requirements, based on the available technology designed to reduce adverse environmental impacts.

22. The National Park Service recognizes that prohibiting surface occupancy in important resource areas may, to a marginal extent, restrict the siting of drilling pads and access roads. However, the amount of land available for surface occupancy, coupled with recent advances in directional and horizontal drilling and production techniques, would provide for the development of most oil and gas minerals within Big Cypress National Preserve.

14, 16, 17, 20 and 24 (pages 817-848, relating to limited access to "extremely sensitive areas," limitations on the use of motorized vehicles, requirements for foot access and the use of hand-portable drills in important resource areas and throughout the Loop and Deep Lake Units, limitations on vegetation cutting, and disinclining shot holes in all Important Resource Areas, respectively) create large areas of the BCCP which are from a practical perspective, "off-limits" for seismic exploration. Outright prohibition of surface occupancy in Important Resource Areas would also seriously conflict with the siting of drilling pads and access roads. Based on these proposed management policies Collier estimates (Table 1) that it will be prevented from access to the following portions of each management unit:

Bear Island	100% of currently undeveloped area
Deep Lake	100% of unit
Turner River	75% of unit
Corn Dance	75% of unit
Loop	75% of unit
Blacktop	50% of unit

23

Generally, these estimates are based on the perception that only incomplete survey coverage is possible in these areas because the combination of the above-listed operational stipulations precludes even cursory surveys. These same constraints would similarly prevent effective seismic surveys of 100 percent of the Summitland Trend area, thus preventing Collier's access to its private minerals which are most certain to exist in commercially probable quantities.

24

The proposed management policies, the 10 percent impact limit, and the proposed operational stipulations for drilling and production (pages 369-388) would adversely prevent Collier from undertaking drilling and production in the following percentages (Table 2) of the various management units:

Bear Island	100% of currently undeveloped area
Deep Lake	80%
Turner River	50%
Corn Dance	75%
Loop	50%
Stairsteps	100%

These percentages do not include areas where Collier would be deprived of access to its minerals by inability to conduct effective exploration activities to locate the minerals to begin with. Even with this omission, Collier believes that the proposed management policies would effectively prevent access to the minerals beneath approximately 30 percent of the Summitland Trend area.

This is in sharp contrast to the DGMP's statement that "under the proposed action for minerals management, oil and gas exploration and development would be allowed to continue within the BGNP under certain restrictions" (page 57). Given the exclusionary effect of the proposed action as described above, the "certain restrictions" alluded to by NPS appear to swallow the rule.

This, of course, raises the specter of an unconstitutional regulatory taking of private property rights without compensation. The DGMP/DREIS states, in this regard (p. 261-262):

23.

See response 21 above.

24.

The 10 percent limitation would not preclude Collier or any other mineral owner from accessing their minerals. However, it could influence the timing of development operations. The National Park Service estimates that oil and gas would be recoverable from the vast majority of the preserve by using directional drilling technology and drainage. The following percentages are estimates of areas not drainable when important resource areas are avoided. The percentages were calculated by adding the acreages of important resource areas, plus those areas totally surrounded by important resource areas, and then reducing the resulting blocks by a 0.9 mile buffer. The buffer was determined based on the ability of the industry to reach a bottomhole location 0.5 mile away from a surface location and an additional 0.4 mile drainage radius (the drainage radius is based on half a diagonal of a 160 acre spacing unit.)

	Percentage of Unit Not Drainable
Bear Island	1%
Deep Lake	0%
Turner River	1.4%
Corn Dance	0%
Loop	9%
Stairsteps	47%

Assuming, for purposes of analysis, that the figures presented in the comment are accurate, NPS estimates indicate that approximately 86 percent of the oil and gas under Big Cypress would be recoverable if current directional drilling techniques were effectively used. Advances in technology would likely increase this estimate. It is anticipated that an even higher percentage of Collier oil and gas interests would be accessible.

25.

The National Park Service predicts that approximately 99 percent of the Summitland trend area would be drainable because the patchwork pattern of old-growth pine (the primary important resource area over a large portion of the trend) leaves open many small sites where pads could be located to drain the vast majority of the oil and gas resources by using the best available technology.

A final decision to close areas to mineral development would constitute a finding by the National Park Service that these areas are "subject to, or threatened with, uses which are, or would be detrimental to the purposes of the Preserve." The National Park Service would then notify Congress of its intent to acquire the affected mineral interests and would seek appropriations for that purpose.

Collier submits that the combined effect of the proposed management policies, if made binding by the final GMP, would be the equivalent of a final decision to close vast areas of the BGNP to mineral development, and essentially a taking of Collier's minerals in those areas. This can only be avoided by substantial revisions to the proposed management policies to allow reasonable access to the privately owned minerals within the entire BGNP.

DIRECTIONAL DRILLING

Directional drilling is identified by NPS as one among many measures which can be employed by industry to minimize or avoid damage to the surface environment. The Land Protection Plan discussed in Appendix G, page 344, contemplates protection of the resources by "...requiring directional drilling to protect important resource areas." To address this protection, the DCMP states in Subsection No.1, Drilling and Production, page 360, "existing pads and roads are to be used for operations in lieu of creating new surface disturbances to develop oil and gas facilities."

Collier does not dispute that the use of directional drilling does produce less impact by reducing the overall amount of well pads required to develop an oil field. However, it is also Collier's opinion after observing the performance of directional wells drilled in both Bear Island and Raccoon Point Fields over the course of fifteen years that there is a practical, economic, and engineering limit to the application of this technique. Wells drilled with excessively high angles present a greater risk to successful initial completions and cost 1.25 to 2 times the cost of a straight hole well. High angle directional wells seem to have higher operating and repair costs than low angle or straight holes. Finally, the ultimate recovery from the reservoir is often at greater risk because directional wells seem to have a greater frequency of mechanical

26. Decisions presented in the final GMP/EIS regarding minerals development would not constitute a taking of Collier's mineral interests (see appendix H). The purpose of the GMP is to guide resource management and general development activities.

27. Since the Raccoon Point 22-3 well was drilled, a significant amount of research has occurred that improves the ability to drill, case, and cement wells. While there may be difficulties and costs associated with directional drilling, the development scenarios and the acreage that may be "unreachable" using 1990 drilling technology were calculated using a bottomhole location that was a maximum of a half mile from the surface location. A 22° angle of deviation is required to reach a half-mile offset in the Surniland formation at approximately 11,000 feet deep. A 28° angle of deviation would be required to reach a Trinity formation (approximately 9,700 feet deep) target, which is a half mile from the surface location. The deviation angles used for planning purposes are within tolerances proposed by Collier.

28.

The text has been revised to state that "the regulations were promulgated to ensure that all nonfederal oil and gas operations are conducted in a manner consistent with the purposes for which the national park system and each park unit was created, and that such operations are not in derogation of park values and purposes or other congressionally mandated standards."

Trend wells.

Under the Bear Island stipulation, the NPS would have all exploration and production conducted from directional wells. Several economic and engineering failures can be pointed out in the trend wells drilled directionally. The Collier/Texas 25-8 well located in the northern portion of Jackson Point Field was drilled utilizing a maximum angle buildup of 85 degrees in order to penetrate the Sunland formation over 1500 feet north of the well's surface location. The well successfully encountered the Sunland. Evaluation logs and cores indicated the presence of an excellent producing well. Unfortunately, the well has yet to produce. It is Collier's opinion that the 25-8 well would have successfully produced were it not for the difficulties created by a high angled well bore.

Collier has a strong concern that the practical limitations of angled wellbores is not recognized and appreciated in the DCEMP. A limit of 20 to 30 degrees is reasonable and helps ensure success in the drilling for, and recovery of, the subsurface resource. The net effect on surface impact would be the equivalent of an additional pad in a Jackson Point type field development. Based on the assessments of development impacts (road and pad footprint) currently present in Jackson Point Field, such an addition would be well within tolerable impact limits for the field area.

RECLAMATION

Collier recognizes the need to mitigate the effects of all and gas operations on the environment in the BCFP. Tasks such as removing limestone roads and pads, restoring these sites to their original conditions, and replacing soil plugs on seismic shot holes are all reasonable requirements for exploration and development activity. In any form or another, performers of these tasks has been agreed to by industry in previous exploration work. However, the stated intent to ensure that all possible measures are taken to minimize

The stipulations provide for better management practices in reclamation activities, and they would accomplish the following objectives: (1) operators would be advised of baseline data requirements that must be included in a proposed plan of operations pursuant to the 36 CFR 9B regulations; (2) reclamation procedures would be specifically addressed to assist operators in preparing adequate reclamation plans to ensure compliance with the 36 CFR 9B regulations; and (3) post-reclamation monitoring and reporting would enable the National Park Service and the operator to determine when reclamation had been completed, as specified in an approved plan of operations, and when the performance bond or security deposit could be returned to the operator. In addition, these stipulations would provide for additional mitigation of potential environmental impacts. While there may be additional marginal costs associated with development in this environmentally sensitive area, these requirements are a result of the legal and regulatory structure governing operations within Big Cypress National Preserve.

environmental impacts" on page 343, is of serious concern to Collier. This concept, when viewed in its entirety (Tables C-1, C-2 and C-3) represents a dramatic departure from past practices, is open ended, excessive, and unwarranted.

Collier's own observations, those made by Collier environmental consultants, as well as by Dr. Taylor Alexander, botanist specialist and member of the Big Cypress Swamp Advisory Committee since its inception seventeen years ago, indicate that many road and pad sites inside the BCNP are actively being reclaimed under requirements far less onerous than those proposed in the DQMP. Active reseedling by native species was observed to be prevalent while exotic constituents were minimal. Although partly with pre-development density is not yet established, there is every indication that after several growing cycles parity will be achieved, perhaps not in maturity but certainly in number and diversity.

As early as 1978 Duver (1986 Report) found, after evaluating five abandoned paths (four reclaimed), that "the prospect that native plants will occur are good [because] invasion occurs within a few months' [and] diversity begins to be obvious in about three years...". The report concludes that practices appear to recover fully in four years and unnecessary species were present and spreading. Duver also noted that roads and pads reclaimed under the conditions imposed by the State's Big Cypress Swamp Advisory Committee did not represent a long-term obstacle to the recovery of native vegetation even when its replanting was done (Duver 1986, page 37).

The standards proposed in the stipulations for drilling and production together with those for geophysical operations appear to be very similar to those proposed in Radon Corporation's 1986 report which addressed reclamation in areas of past oil and gas activity within the BCNP. A detailed review of Radon's report suggests the authors were responding to an "idealistic" reclamation approach completely devoid of financial restraints. Collier finds Radon's "high low" requirements for reclamation and the attendant cost for implementation to be potentially devastating in terms of the financial burden such a stipulation would impose.

29. The proposed stipulations for geophysical operations are financially practical. In fact, seismic explorations have been conducted within Big Cypress National Preserve under a permit that contained stipulations similar to those now being proposed. The stipulations contained in the final document would provide for seismic exploration conducted in an environmentally sensitive manner, employing the best available technology.

30. The decision on the use of roads and pads for public use can only be made upon termination of oil and gas operations at specific locations. It is unlikely that elevated limerock roads and pads would provide significant refuge to wildlife in the wet season. Retaining such roads and pads for these purposes would neither be in accord with the fundamental purposes for which Big Cypress National Preserve was created, nor would it comply with NPS management policies regarding the maintenance of natural ecosystem processes.

The good record for natural revegetation makes the NPS (Reidman) approach seem unnecessarily costly.

In reviewing both recent and earlier evaluations of reclamation, Callier is simply at a loss to understand how the current reclamation standards fail to accomplish the intent of 35 CFR 92. This is particularly true in light of the favorable results of reclamation (at very low cost) described by Duver (1960) and Alexander (personal communications 1983, 1986). More to the point, Callier views the proposed reclamation stipulations to be unneeded, arbitrary and totally unsupported.

SEISMIC OPERATIONS

Seismic exploration is used as an indirect method to identify and delineate geological prospects. Most of the stipulations proposed in Appendix C would render seismic exploration financially impractical. The oil and gas industry has determined through decades of global experience that, when performed in a technically sound fashion, seismic testing is the least intrusive and least expensive evaluation technique available for geologic prospecting. This hard-won wisdom is, no doubt, equally applicable in the BCNP. The inability to conduct seismic testing in the BCNP could cause unproductive and unnecessary "wildcat" wells to be drilled as geologists define the subsurface model of this area. Seismic evaluation techniques eliminate unnecessary wells and associated pads and roads thereby benefiting the surface environment with fewer wells and concomitantly less impact. A balanced program of seismic evaluation and drilling will provide the most environmentally sensitive approach to future work in the BCNP.

COOPERATIVE USE OF INFRASTRUCTURE

The DCMFP falls substantially short in the area of multiple use of all infrastructure. Nowhere in the thousands of words used to characterize oil and gas development is there any mention of any "benefits". Yet, benefits have, in fact, been documented to exist. Countless sightings of wildlife on roads and pads during periods of high water represent the most cited observation by industry personnel. This potential benefit of roads and pads is prominently noted

In Duver's 1986 Report (page 380) when it was pointed out that "it may be advantageous for the NPS to have some of the related peaks"

Duver goes further to suggest that roads and pads "could have potential as wildlife refuges, biological sampling sites, water monitoring stations, photo points, fire fighting bases, and/or building sites for recreational and/or management purposes." Collier suggests that the NPS keep an open mind regarding the possible alternative uses for all development structures. Rather than rebuild an entire road and pad system, partial reconstruction of the system into a "chain" of devoted linear, islands would provide refuge to wildlife in the wet season.

It is not unusual for industry to use previously built roads to access new drill sites. NPS should also consider the likelihood of future use before ordering removal. Collier would welcome a cooperative program of road construction maintenance and use. There are countless opportunities for the construction of multi-purpose roads. Alternative uses may, in many cases, prove to be as beneficial to the RCNP as the implementation of the restoration (restoration) mandates outlined in CFR 98 CFR 98.

IV. LEGAL CONSIDERATIONS

INTRODUCTION

In reviewing the DGMP/DEIS, Collier has identified, and analyzed a number of legal issues. Some of these legal issues relate directly to a specific resource or proposed management policy (such as access off of 1-76 and limits on ORV usage), and they are discussed in the section of these comments dealing with that specific resource or management policy. This section addresses the legal considerations which do not relate directly to a specific resource or policy. These legal issues generally fall into four broad categories, which are: the nature of the policies proposed in the DGMP, the scope and character of the DEIS, the adequacy of the DEIS to satisfy the procedural requirements of the National Environmental Policy Act, and the validity of the policies proposed in the DGMP in the traditional administrative authority context.

THE NATURE OF THE POLICIES PROPOSED IN THE DGMP

The DGMP does not specifically explain the level of formality with which the policies it contains are to be viewed by the NPS and the public. Without such an explanation, the policies proposed in the DGMP could be perceived merely to be general policy guidelines providing only an overall context within which the NPS will consider all specific proposals for oil and gas activities or, on the other hand, the policies proposed in the DGMP could be intended to constitute a binding set of rules which leave no room for the exercise of agency discretion with respect to specific oil and gas proposals based on the administrative record developed in connection with such proposals. Collier strongly believes that the DGMP should be viewed as a general policy statement as to how the NPS generally intends to carry out its statutory management responsibilities in the BOWP, not a more rigid set of absolute criteria authoritatively controlling all agency decision making on future HCMP management issues. At a minimum, the DGMP should be amended to include a discussion of this issue and an unambiguous statement as to the NPS intent. It may be that NPS intends some general

31. The purpose of the GMP is to guide future actions concerning visitor use, resource management, and general development. These purposes are described in the "Introduction" to the draft GMP/EIS. Further clarification has been provided and is discussed in the final GMP.

policies and some specific rules.

The difference is a significant one and has long been recognized by the courts.⁴

The critical distinction between a substantive rule and a general statement of policy is the different practical effect that these two types of pronouncements have in subsequent administrative proceedings. (Quintus omitted). A properly adapted substantive rule establishes a standard of conduct which has the force of law. In subsequent administrative proceedings involving a substantive rule, the issues are whether the adjudicated facts conform to the rule and whether the rule should be waived or applied in that particular instance. The underlying policy embodied in the rule is not generally subject to challenge before the agency.

A general statement of policy, on the other hand, does not establish a "binding norm." It is not finally determinative of the issues or rights to which it is addressed. The agency cannot apply or rely upon a general statement of policy as law because a general statement of policy only announces what the agency seeks to establish as policy. A policy statement announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation, it must be prepared to support the policy just as if the policy statement had never been issued. An agency cannot escape its responsibility to present evidence and reasoning supporting its substantive rules by announcing binding procedural in the form of a general statement of policy.

Even though a general policy statement has no binding legal effect, it nevertheless serves a useful purpose (1):

As an informational device, the general statement of policy serves several beneficial functions. By providing a formal method by which an agency can express its views, the general statement of policy encourages public dissemination of the agency's policies prior to their actual application in particular situations. Thus the agency's initial views do not remain secret but are disclosed well in advance of their actual application. Additionally, the publication of a general statement of policy facilitates long range planning within the regulated industry and promotes uniformity in areas of national concern.

If the NPS makes it clear that its final GMP is only a policy statement regarding oil and gas activities, as Collier believes it should, our disagreement with the DOMP's management

philosophy will not change. However, Collier's anxiety level will be reduced, inasmuch as it will know that it will have the opportunity to demonstrate on a case-by-case, site-specific basis that specific exploration and development projects, using state-of-the-art technology and environmental impact mitigation concepts, can be carried out in an environmentally acceptable manner that will not be detrimental to the BCNP's values even as characterized by the DGMF. Correspondingly, the NPS will be able to exercise appropriate control of the environmental impacts of such activities under its existing regulations.

Even absent a specific statement as to whether the NPS intends the policies expressed in the DGMF to be general policy guidance or hard-and-fast rules, Collier believes that the method chosen by NPS to promulgate the DGMF demonstrates that the intent is for the former. After all, the NPS has specific regulations in place (36 C.F.R. Part 9, Subpart B) which establish a process and criteria for determining the acceptability of access to all privately owned minerals beneath all properties managed by the NPS. If intended to be hard-and-fast rules, the policies contained in the DGMF would expand, contradict or supersede many of the criteria contained in these existing regulations. As the existing regulations are formally adopted pursuant to the federal Administrative Procedure Act (APA), NPS would have to comply with the notice and comment requirements of the APA to amend these regulations. Since no notice of such rulemaking has been published by NPS, it is apparent that NPS does not intend to amend 36 C.F.R. Part 9 Subpart B by promulgation of the policies in the DGMF. Instead, absent the APA required rulemaking procedures, the legal status of the policies in the DGMF can only be general policy statements of how the NPS intends to apply the decision making criteria in the existing regulations to specific mineral development proposals within the BCNP. This should be clearly and specifically stated at the outset of the DGMF.

SCOPE, CHARACTER AND ADEQUACY OF THE DEIS

It is also not apparent on the face of the documents exactly what scope the NPS intends for the draft environmental impact statement. The final EIS should address this

32. The general management plan has been prepared in compliance with the requirements of 16 USC 1a-7. It should not be interpreted as a rule-making activity under the provisions of the Administrative Procedures Act.

33. The purpose of the EIS is to analyze the impacts of implementing a proposal and its alternatives. However, additional, site-specific environmental documents could be required before individual actions were undertaken as a result of the adoption of the final plan. This is in accord with the requirements of the National Environmental Policy Act (NEPA) and its implementing regulations.

oversight specifically said in detail, so as to avoid future confusion as to the effectiveness of these documents in complying with the procedural requirements of NEPA. Collier believes that the intent of NPS in promulgating this draft is to satisfy all of the environmental disclosure and procedural requirements of NEPA with respect to the development of an overall plan for managing the BCNP, including all management policies governing use of the BCNP for areas in privately owned interests within the BCNP. While, as discussed in detail elsewhere in these comments, Collier takes exception with many of the management policies proposed, it is apparent that NPS intends for the DEIS to be a comprehensive 'programmatic' EIS fully adequate to support the development of final management decisions for all activities within the BCNP. Moreover, given the very detailed (albeit, Collier maintains, incomplete) consideration of the environmental effects of, and the very restrictive proposed conditions under which seismic exploration may be undertaken within the BCNP, it is apparent that the NPS intends the DEIS to serve as a comprehensive 'programmatic' EIS for seismic exploration in the BCNP such that specific seismic projects may later be authorized based only on site specific supplementation of this document either by promulgation of a supplemental EIS or preparation of site-specific environmental assessments, as appropriate.

Collier believes that it is vital for the final EIS to specifically explain the NPS intent, in this regard, because of the mandate of the Fiscal 1989 Interior Department Appropriations Act that:

none of the funds in this Act may be used to issue a permit for seismic exploration of the BCNP, Florida, until an environmental impact statement has been completed. That such statements shall be completed within two years of the date of enactment of this Act.⁴

Otherwise, it is problematic whether Collier may initiate seismic exploration of its properties without the kind of controversy that occurred during the recently aborted attempt by Shell Western to evaluate our interests using state-of-the-art seismic methods. To avoid repeating

⁴1025 Stat. 1774, 1789 (1989).

34. It is the National Park Service's intent that this environmental documentation serve as the appropriate environmental document to meet the intent of the Fiscal 1989 Interior Department Appropriations Act. A statement of such intent has been included in the final GMP/EIS. Each proposed oil and gas operation in Big Cypress National Preserve remains subject to applicable regulations at 36 CFR 9B, including compliance with NEPA.

35. The "Planning Issues and Management Concerns" section of the plan documents that management planning for the 146,000-acre preserve addition is an issue beyond the scope of the GMP/EIS. Oil and gas exploration production in the addition and accompanying plans of operation would be processed under the agreement in appendix 6 of the "Agreement Among the United States of America, Collier Enterprises, Collier Development Corporation and Barron Collier Company," dated May 12, 1988.

the waste of time, money and good will that occurred as a result of the Shull Western case, the NPS must do all in its power to achieve through these documents a fully adequate EIS treatment of seismic activities satisfying the mandates of the Fiscal 1989 Interior Department Appropriations Act.

In doing so, Collier also believes that the scope of the EIS should be expanded to include the 146,000-acre BCNP Addition.¹⁹ As the expansion of the BCNP is outside the limit to the northeast of the current BCNP boundary is fully authorized and substantially complete, it would seem appropriate to complete the management planning for the Addition now rather than repeating this process once the Addition is finalized.

This is not to suggest, however, that Collier believes that the currently proposed management policies are appropriate for the Addition area. Management policies for the Addition area must implement the expanded legislative mandate applicable to the Addition as a consequence of the recent congressional authorization for the expansion of the BCNP, including the specific stipulations for access to the Addition for mineral exploration and extraction agreed to between the federal government and the private landowners. These stipulations were made conditions of the sale of the Addition area to the federal government based on previous difficulty in gaining access to private mineral rights within the existing BCNP boundaries under the normal regulatory scheme, and thus must be implemented by NPS in developing management policies for the Addition area. As the stipulations are intended to guarantee access to the Addition for mineral exploration and extraction, the Addition area must be included in this EIS rather than being the subject of future NEPA documentation. Otherwise, once the Addition becomes part of the BCNP, the provisions of the Fiscal 1989 Interior Department Appropriations Act would create a de facto moratorium on access to the Addition area for seismic exploration, thus denying the private mineral owners the benefit of the bargain they struck for the Addition to be made a part of the BCNP.

¹⁹Big Cypress National Preserve Addition Act, Pub. L. 100-501, 102 Stat. 444-45 (1988).

This is not such a pertinent task as it may seem at first blush. The resources are substantially similar in the Addition and the BCNP. Presumably, the BCNP's resource protection and access policies would apply in the Addition. The only question, then, is the location and extent of the various resource types in the Addition, leaving only a mapping exercise which could be done in the context of a specific access proposal.

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Because of the mandate of the Fiscal 1989 Interior Department Appropriations Act, it is in Collier's best interest that the EIS be fully adequate so that Collier may proceed to explore for and, if found, extract its minerals from beneath the BCNP. Consequently, Collier finds it necessary to highlight the deficiency of the DEIS's treatment of the current state of seismic technology and associated environmental mitigation and restoration technologies and concepts. In NEPA parlance, these deficiencies fall into two major categories: gross over-estimation of the environmental impacts likely to result from oil and gas activities; and, failure to analyze reasonable alternatives to the proposed agency action. Both types of inadequacies are logically related in that they both result from a consistent assumption by the DEIS authors that future oil and gas activities within the BCNP will be conducted in the same manner as before the BCNP was created. While it is true that some oil and gas activities using now obsolete and environmentally insensitive methods have historically occurred within the BCNP,¹¹ selection of alternatives and prediction of impacts based on these obsolete techniques ignores advances in technology, increased environmental consciousness and sensitivity, far more extensive environmental regulation and recent first hand experience with the use of modern exploration techniques within the BCNP. Given the incredibly restrictive list of "operational stipulations" presented in Appendix C (pages 365 through 366), it is incomprehensible that alternatives would be selected and impacts predicted without regard to the impact mitigation and avoidance resulting from the application of these "operational stipulations."

¹¹Even then, as the Denver report concluded, the environmental impacts were minimal.

Particularly with regard to seismic exploration, it is not as though the 'operational stipulations' represent untried or theoretical new impact mitigation or avoidance techniques. In 1983, Shell Western undertook seismic exploration within the BCRP under a permit containing stipulations virtually identical to those now being generally proposed. Thus, those stipulations actually comprise the status quo of seismic regulation within the BCRP, not some new proposal for such regulation. Shell Western's activities were observed by NPS personnel every step of the way and were extensively documented on video tape. The evidence shows clearly that most, if not all, of the environmental impact of seismic exploration is avoided by the use of modern environmentally sensitive techniques. And, yet, the DEIS projects impacts and defines alternatives based on outdated methods. This is akin to evaluating the impact of modern laser surgery by consideration of the effect of using leeches to bleed a patient. The result is that the DEIS grossly overestimates the environmental impact. Study to result from future oil and gas activities within the BCRP and is also inadequate for failure to analyze reasonable alternatives to the proposed action (i.e., the status quo alternative). It simply is not reasonable to evaluate the impacts of oil and gas activities under the status quo alternative by assuming that obsolete methods will be used.

Specifically, the analysis of the probable environmental consequences of the status quo alternative must be revised to reflect impact mitigation and avoidance based on modern procedures and the 'operational stipulations'. The DEIS projects, on page 295, that

If oil and gas development occurred south of U.S. 41, surface water flows could be disrupted and could cause adverse effects on the Ten Thousand Islands estuary in Everglades National Park. Adverse hydrological effects, such as ponding, altering flow velocity and patterns, and water temperature changes, could occur in an area 500 feet on any side of development.

This projection fairly ignores the eleven operational stipulations (five for seismic activities, six for drilling and production) designed specifically to avoid the projected impact. This projection also ignores Shell Western's recent experience conducting seismic exploration

36. The sections have been revised where necessary to reflect impact mitigation techniques recently employed in Big Cypress National Preserve.

37. The National Park Service believes that all revisions in the final GMP/EIS satisfy the requirements of NEPA. The National Park Service agrees that the document is adequate in a "programmatic sense" for oil and gas operations. Supplemental NEPA documentation will be required on all proposed plans of operations to satisfy compliance requirements specified in the 36 CFR 9B regulations.

within the BCNP with no measurable effect on surface water flows within the BCNP, much less on the Ten Thousand Islands estuary.

In similar fashion, the prediction of environmental consequences of the status quo alternative overestimates the potential for impacts on water quality, cypress strandlines, hardwood swamp/hammocks and cypress domes, marshes, mangrove forests, old growth pinlands, hardwood hammocks, Florida panthers, Cape Sable Seaside Sparrows, Red-necked woodpeckers, Bald eagles, White-tailed deer and fawn bags, air quality and cultural resources by ignoring the operational stipulations intended to avoid and mitigate these impacts and recent experience within the BCNP demonstrating that modern oil and gas technology successfully minimizes these impacts.

These omissions must be corrected for the DEIS to adequately satisfy the requirements of NEPA. Even then, Collier believes that the DEIS will be adequate only in the programmatic sense, not to support site specific decision making. Some form of site specific implementation will be required to adequately support site specific decisions.

ADMINISTRATIVE VALIDITY OF PROPOSED MANAGEMENT POLICIES

Collier believes that many of the management policies proposed in the DGMP are arbitrary, capricious, without basis in law or fact and are thus invalid under traditional administrative authority concepts. These deficiencies are beyond the invalidity of all policies proposed in the DGMP as a result of the current inadequacy of the DEIS. Presuming for the sake of these comments that the DEIS inadequacy will be corrected as suggested above, this invalidity of proposed management policies will not be discussed further.

Collier owns some 252,000 acres of reserved oil and gas interests in the 640,000 acre portion of the BCNP which is covered by the DGMP, or approximately 47 percent of the area. The DGMP nevertheless proposes that "at any one time, only 10 percent of the BCNP could be subject to the influences of oil and gas exploration and development activities" (page 86). There is no basis in the 1974 Act or its legislative history for the imposition of a ceiling

38.

The National Park Service concurs that Congress did not legislate a percentage limitation on the amount of rights that could be developed. However, Congress did direct the secretary of the interior, and in turn the National Park Service, to provide for resource extraction so long as the resources and values for which the preserve was established were not impaired. Limitations on the level of development are reasonable measures designed for resource protection of ecological integrity while continuing to allow for an appropriate level of oil and gas activity. Evaluations of impacts and the establishment of appropriate levels of activity would also include an evaluation of the cumulative impacts of such activities on resources under both the requirements of 36 CFR 9B and NEPA. See responses 4 and 9.

limitation on Collier's retained oil and gas development rights measured by an arbitrary flat percentage of oil and gas "influence" average relative to the total size of the BCNP. As discussed in Section III, supra, Congress was fully apprised that there would be extensive private mineral interests within the boundaries of the proposed BCNP and that future expanded development within the BCNP was planned. One witness testified that there were about 208,000 acres of oil, gas and mineral leases in force in the 685,000 acres in the BCNP watershed, or over 50 percent of that area.¹³ These were leases issued by Collier. Moreover, Congress was advised in 1974 that the Governor of Florida had convened a conference in 1971 to consider the history and future of oil and gas development in the BCNP area, as a result of which the Governor and the Florida Cabinet found that "almost 80 years of oil exploration and production in the BCNP area has had no known significant adverse effects on the ecology of the watershed."¹⁴ The Governor and the Florida Cabinet concluded that oil and gas operations should be permitted to continue under the supervision of a Special Advisory Committee on Drilling in the BCNP composed of a botanist, a hydrologist, a representative from organized environmental conservation groups, the executive director of the Florida Petroleum Council, and the Director of the Division of Interior Resources of Florida. The Committee's procedures required that future oil and gas exploration and development proposals in BCNP obtain its express approval based on site-by-site inspection of proposed projects and consideration of their potential environmental impacts.¹⁵

Given the foregoing background, Collier believes that it is not proper to select a wholly arbitrary percentage ceiling on development, as the NPS has done, but to continue the process that Congress was advised would guide future development in the BCNP, namely, review and

¹³Hearings on S. 854, S. 783, S. 920 and H.R. 10088 before the Subcommittees on Parks and Recreation of the Senate Committee on Interior and Insular Affairs, 93rd Cong., 2d Sess. 189 (1974) (Statement of R.W. Bybee)

¹⁴*Id.* at 204-05.

¹⁵*Id.* at 205.

approved by the Big Cypress Swamp Advisory Commission and exercise of the Secretary's existing regulatory authority in 86 C.F.R. Part 3 Subpart B over private oil and gas operations in the National Park System, guided by compliance with the requirement of the National Environmental Policy Act. A case-by-case approach permits a record to be developed on site specific projects and the environmental impacts of not only each project but the cumulative impacts of all oil and gas developments within the BCNP, thus enabling a realistic determination to be made by the NPS, based on actual data and experience rather than hypothetical speculative percentage thresholds, as to when further development would be actually "detrimental" to the purposes for which the BCNP was created. Against the foregoing background it is wholly unrealistic to assume that Congress intended to authorize the Secretary to impose any percentage limitation on acreage subject to oil and gas exploration and development, let alone the restrictive 30 percent limitation proposed by the DCMP.

Nowhere in the legislative record of Congressional reauthorization of the future of oil and gas development in the BCNP was there ever any hint that the Secretary, either in a determination that the development of specific oil and gas resources would be "detrimental" to the purposes of the BCNP and should be acquired, was authorized to impose a percentage limitation on the amount of such rights that could be developed. Indeed this last word to Congress from the Department on the subject was that the "Federal [surface] owners and the owners of the mineral rights can work together cooperatively to allow drilling to continue, at the same time allowing it in a most environmentally sensitive way."¹³

Not only is such an approach not authorized by P.L. 95-440, but to the best of Collier's knowledge, it is unprecedented as a regulatory approach for mineral development in environmentally sensitive areas. For example, the mandate to the Secretary to permit oil and gas development in the BCNP unless it would be "detrimental" to the purposes of the BCNP is similar to the Congressional directive to the Secretary in section 4(c) of the National Wildlife

¹³Id. at 74 (Statement of Assistant Secretary Nathaniel P. Reed).

Refuge System Management Act of 1960 "to permit the use of any area within the System for any purpose, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established..." 16 U.S.C. 1665(a)(4). The National Wildlife Refuge System as of 1981 was comprised of over 413 refuges and 146 waterfowl production areas.¹⁶ Although there are extensive privately owned mineral interests in those units, to the best of Collier's knowledge the Fish and Wildlife Service has not imposed a percentage acreage limitation on mineral development in those units such as the DGMMP purposes for BCNP.¹⁷ Even though the resources values which the system was created to protect, i.e., wildlife and their habitat, are substantially identical to those for which Big Cypress was created.¹⁸

With respect to the DGMMP declaring large segments of the BCNP 'off limits' to oil and gas exploration and development, Collier believes that the Congressional decision to adopt the Secretary's recommendation not to acquire Collier's mineral interests in the lands included in the BCNP created a strong presumption that oil and gas development is not in the "interests" to the BCNP's purposes and that the Secretary carries a heavy burden of making a finding to the contrary. We strongly doubt that the Secretary could justify, either to Congress or a court, that the public values which Congress sought to protect by creating the

¹⁶American Petroleum Institute, Survey of Oil and Gas Activities on Federal Wildlife Refuges and Waterfowl Production Areas, Research Study No. 1051 (October 1968) at p. 1.

¹⁷Id. at parts IV and V.

¹⁸The general purposes for which the National Wildlife Refuge System is maintained are set out in 50 C.F.R. §26.11(b):

All national wildlife refuges are maintained for the primary purpose of developing a national program of wildlife and ecological conservation and rehabilitation. These refuges are established for the restoration, preservation, development and management of wildlife and wildland habitat; for the protection and preservation of endangered or threatened species and their habitat; and for the management of wildlife and wildlands to obtain the maximum benefits from these resources.

39

BCNFP are so threatened that wholesale prohibition of all oil and gas exploration and development in a major portion of the BCNFP is required.

More importantly, such a prohibition drastically prevents the prospect of an administrative taking of Collier's mineral interests in the units where development would be prohibited and the attendant Fifth Amendment requirement of just compensation for such taking. In this regard there is no indication that Executive Order No. 12640 promulgated on March 15, 1988, was considered. Several principles of that order and the implementing Justice Department guidelines are particularly applicable to the DGMF proposal.

First, there can be no doubt that denial or undue delay of reasonable access to the owner of a reserved mineral interest for its exploration and development constitutes a taking of that property interest.¹⁵ In any event, it clearly takes "significant takings implications" as defined in section IV(A) of the Justice Department guidelines.

Second, section 4(b) of the executive order makes it clear that "when a proposed action would place a restriction on use of private property the restriction imposed on the use shall not be disproportionate to the extent to which the use contributes to the overall problem that the restriction is imposed to redress." Since nothing in the DGMF enables one to determine the extent to which oil and gas development has contributed to environmental impacts on the BCNFP, factors the substantial impacts obviously resulting from hunting, fishing, ORV usage, etc., Collier believes that outright prohibition of oil and gas activity is substantial, portions of the BCNFP cannot be justified.

Third, the NPS proposal is plainly subject to the Justice Department's admonition that "where such taking risk cannot be wholly avoided, responsible government officials should, to the extent possible and consistent with the obligations imposed by law, minimize the potential

¹⁵See, e.g., *First English Evangelical Lutheran Church v. Los Angeles County*, 482 U.S. 304 (1987); *Sherrill v. Utah*, 668 P.2d 699, 805 (Utah, 1983); *Utah v. Andrews*, 486 P.2d 868 (Utah, 1971).

39. A takings implication assessment has been prepared and is contained in appendix H of the final GMP/EIS.

40. The National Park Service believes the 10 percent limitation is appropriate and well substantiated for prudent management and protection of preserve resources and values. Nonetheless, the Park Service recognizes that this limitation must be responsive to new data obtained from long-term scientific research.

Financial impact of takings by appropriate planning and implementation." Section VI(A)(5) Similarly, Section VII(D)(4) provides that:

Agencies should strive to the extent permitted by law, consistent with their statutory obligations, to undertake policies or actions in a way which minimizes their takings implications. Where such implications cannot be wholly avoided, the agencies should take appropriate actions to minimize the potential financial impact of takings.

Finally, we see no indication that the NPS has prepared the Takings Implication Assessment required by section VI(A)(5) of the Justice Department guidelines, with particular emphasis on (1) the "identification and consideration of alternatives, if any, to the proposed policy or action which also achieves the government's obligations under law but would reduce intrusions on the use or value of private property" (emphasis added) and (2) the need for "an estimate of the potential financial exposure to the government should a court find the proposed policy or action to be a taking". Section VI(A)(5)(iii) and ii.

Even assuming, without concluding, that such a regulatory approach is permissible under the congressional scheme, however, the DGMP offers no precedent or rationale for the 10 percent figure, stating simply that it is based on the NPS's "best professional judgment." (page 83E). The DGMP concedes that the selection of an appropriate limitation is "a policy question for which there are no clear answers" (id.), a proposition with which Odier agrees.

With no statutory or factual support, such a limit is facially invalid as arbitrary and contrary to the Congressional intent. If the NPS nevertheless decides to adhere to a percentage limitation approach as a matter of policy, it should make it clear that the percentage limitation is subject to modification on the basis of subsequent experience and as new data is developed, as the DGMP states will be the case with its arbitrary 0.5 mile "area of influence" determination (page 83E).

The details of this [area of influence] methodology will be refined through this and included in revisions to the mineral management plan. As the findings of additional research become available, the area of influence distances may be revised as necessary.

Even if a percentage limitation is retained as a matter of policy, consideration needs to be given to providing some flexibility in its application. For example, an appropriate threshold level of duration of impact should be considered so that very short term impacts would be excluded from comparability. Similarly, any percentage limit should be applied on an average, rather than on absolute basis. Thus, in the short term, seasonal restrictions on activities could be balanced against more extensive permitted activity in other seasons. Likewise, given the fluctuations in oil and gas development due to changing market conditions, any percentage limitation could be applied on an average over a particular period, such as ten years or the life of the GMP.

In short, if Collier can demonstrate, as it or its lessees come forward with exploration and development proposals, that such development in excess of the 10 percent limitation would not be "detrimental" to the BOWP, or, as the Law Environmental field studies have already demonstrated, that the 0.5 cubic miles of influence factor is too high, it should be clearly stated in the GMP that those figures may be adjusted to conform to the realities of actual oil and gas operations (determined through monitoring and assessment) and their associated impacts on the BOWP. In essence, any percentage limitation in the GMP should be only a policy guideline or goal, not an inflexible legal restriction, subject to change upon an adequate showing, based on actual experience or the generation of new research data. Barring that approach the BOWP is unrealistic and invalid.

VI. SPECIFIC COMMENTS ON ENVIRONMENTAL CONSEQUENCES OF PROPOSED ACTION

Collier has reviewed the section on "Environmental Consequences Proposed Action" and presents the following comments. Collier has similar comments for Alternative A and Alternative B where NPB has made similar statements.

...

Insects on Surface Water Flows

Page 211: Any sediment mounds created during shot-hole drilling could alter water flows.
Response: Shell Western's operations in 1988 conclusively demonstrated that sediment mounds are not created in shot-hole drilling operations.

...

Page 211: Limestone caprock could collapse around some 2 1/2" holes, resulting in sinkhole formation.
Response: This concern is misplaced as demonstrated by Shell Western operations in 1988. Sink conditions are not conducive to this occurring. In thousands of shot holes drilled in South Florida by Shell Western, this phenomenon has not occurred.

...

Page 211: If oil and gas development occurred south of US 41, surface water flows could be altered.
Response: The DGM/DIR is devoid of evidence showing this to be possible, particularly with stipulations proposed for mine-wash management.

...

Insects on Water Quality

Page 221: Water quality could be affected by increased turbidity due to stalling and driving vehicles along seismic lines.
Response: This is not a valid concern as demonstrated by Shell Western operations in 1988. What little turbidity is created in shot-hole drilling or vehicle operations is well within applicable water quality standards at the boundary of the mining area allowed by the Florida Department of Environmental Regulation.

...

41.

The complete statement as contained on page 221 of the draft GMP/EIS recognizes that mitigation measures could lessen these effects.

Even though sinkholes at Shell Western shot-hole locations have not been observed in the preserve to date, the National Park Service believes that this concern remains valid due to near-surface detonation of dynamite charges within limestone caprock. The formation of sinkholes as a result of such explosions may not occur for several years after completion of an operation. Until long-term monitoring data prove otherwise, the National Park Service would continue to recognize the possibility of small-diameter sinkhole formation following subsurface detonation of dynamite charges.

42.

See responses 13 and 14 above.

43.

The potential impact to water quality remains a valid concern. While some individual shot-hole drilling operations may not result in turbidity, the document's description of potential water quality impacts as a result of drilling and driving activity is an accurate description. Shot-hole drilling and vehicle usage during the Shell Western operations in 1988 did not result in increased turbidity because no shot holes were drilled, nor were vehicles used, in areas of standing surface water within the Deep Lake unit. Operations were conducted during the dry season, and drilling vehicles avoided what few standing water areas existed at that time. Increased turbidity impacts are expected to be localized and would be mitigated by applying appropriate stipulations contained in the "Minerals Management Plan" (appendix C).

COMMENTS

RESPONSES

44
 Page 224:
 Response: Water quality could be affected by increased changes in pH due to limestone cuttings and bleedoffs.
 Shell Western's operations in 1988 conclusively showed that pH is not altered in shot-hole drilling operations.
 ...

45
 Page 225:
 Response: Water quality could be affected by motor oil and other contaminants given off by vehicles and equipment.
 Shell Western's operations in 1988 also proved that vehicles can be operated without motor oil leakage. A nebulous concern over "other contaminants" is not a meaningful prediction of an environmental impact, and thus defies a response.
 ...

46
 Page 225:
 Response: Pressures greater than those expected may be encountered (especially in the uppermost areas off the Sunland trend) and may exceed the capabilities of fibrous preventers.
 There is no basis for this concern. The Florida Department of Natural Resources' oil and gas rules provide adequate requirements for blow out preventers and well control procedures to meet even unexpected conditions. In addition, all operators follow API guidelines for well control in frontier areas.
 ...

47
 Page 225:
 Response: An investigation of groundwater quality impacts was conducted in Big Cypress after an accidental discharge of produced water from a mud separation pit in the Raccoon Point field in 1984.
 This statement is repeatedly used by NPS as an illustration of water quality impact; this is not appropriate in light of changes in oil and gas rules that provide adequate requirements for self-contained systems designed specifically to prevent similar events.
 ...

48
 Page 224:
 Response: Drilling into pockets of oil or gas that are in natural equilibrium with the subsurface geologic environment could introduce oil or gas into other sedimentary zones if the well casing breaks.
 This statement is factually inaccurate and ignores state oil and gas rules that provide adequate requirements for safe well installation and maintenance.
 ...

44. Surface water pH values before, during, and after shot-hole drilling were not obtained, to the best of our knowledge, by either Shell Western or the National Park Service in 1988. Therefore, in the absence of such data, the Park Service believes there is a potential for localized alteration of surface water pH during shot-hole drilling operations.

45. Even though motor oil leakage was not reported during the 1988 Shell Western operations, the fact remains that combustion engines often leak oil. NPS observers of the Shell Western operation did document hydraulic fluid leaks (e.g., other contaminants) from several portable GeoRex drilling units; therefore, the Park Service believes that this possibility represents a valid concern in terms of potential water quality impacts.

46. While diligent adherence to the state regulations and the API guidelines will reduce the probability of a blowout occurring, it cannot guarantee that a blowout will not occur. The document does not say that blowouts will occur, only that they may happen, and therefore they remain a potential threat to water quality.

47. The Park Service recognizes that current requirements for self-contained systems, versus the use of earthen pits, would likely prevent a similar event in the future. The specific event is mentioned in the document to show that accidentally spilled contaminants can migrate through porous soils in the preserve, adversely impacting water quality, soils, and vegetation composition in the surrounding area.

48. The sentence quoted from the document describes potential contamination during both the drilling and production phases. While diligent adherence to the state regulations and the API guidelines on casing and cementing would reduce the probability of a casing leak, it cannot guarantee that a leak will not occur, as evidenced by the casing leak at Raccoon Point. The National Park Service does not say that leaks will occur, only that they may happen, and therefore they do remain a potential threat to water quality.

49

Page 224:
...leakage of hydrocarbons into other strata could cause several underground impacts.

Response:
This statement ignores Florida Department of Natural Resources' oil and gas rules that provide adequate casing requirements and integrity testing to prevent leakage into other strata.

... * * *

Page 224:
The leakage of hydrocarbons at or below 500 feet would probably cause some contamination of the Floridan aquifer, or other deeper groundwater zones.

Response:
It is hard to understand how this could occur in light of the Florida Department of Natural Resources' oil and gas rules that provide adequate requirements to monitor for subsurface failures to meet even unexpected conditions. Moreover, brines and other wastes are routinely injected into deeper groundwater zones under Case H well permits conditioned as appropriate by EPA and FDEP.

49. While diligent adherence to the state and EPA regulations and requirements concerning casing, cementing, and monitoring will reduce the probability of contamination occurring, it cannot guarantee that a leak will not occur. The final GMP/EIS does point out that this problem can be controlled by proper casing and plugging of wells.

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Impacts on Cypress Strands/Mixed-Hardwood Swamps/Sloughs and Cypress Domes

Page 225:
Proposed controls on geophysical activities for oil and gas exploration would protect strand/swamp/slough, and cypress dome communities from vehicular access to prevent vehicle ruts and vegetation damage.

Response:
Collar objects to making these areas totally off-limits to the low impact vehicles used in seismic exploration. The NPS proposal ignores Shell Western's success in avoiding vehicle induced vegetation impacts. This concern is also greatly inconsistent with current NPS management of fully such communities which are subject to prescribed burns. The impacts of seismic activities on underbrush are not even measurable against the devastation caused by fire.

... * * *

50. A restriction is justifiable to protect these sensitive aquatic resource areas, which are highly susceptible to vehicle rutting, particularly given recent advances in portable shot-hole drilling technology. Shell Western used low impact shot-hole drilling vehicles only in dry cypress strands and dry mixed-hardwood swamps during their 1988 operations within the Deep Lake unit. Cypress dome communities were never encountered during the shot-hole drilling operation. In fact, vehicle use in areas of dense vegetation and isolated saturated soil areas was specifically prohibited during the operation. Vehicle use in the dry cypress strands did result in breaking off numerous cypress knees, and the protective bark on many other knees was scraped off. Vehicles were used very sparingly in a dry mixed-hardwood swamp environment. Vehicles had to be airlifted through the well-developed and dense canopy layer. Five helicopter sling loads were required per drilling vehicle. Large limbs were broken off trees during the sling operations in this vegetation community. Repeated low-level helicopter operations over a small area adversely affected nesting pileated woodpeckers. Therefore, the National Park Service proposes to strictly limit vehicular access to such vegetation communities in favor of drilling shot-holes with available hand-portable equipment.

51

Page 225:
Drilling and production would be prohibited in these communities.

Response:
Collar objects to making these areas totally off-limits to exploration and production. Again, the NPS creates a gross inconsistency in the management of these areas when these communities are subject to prescribed burns. The impacts of drilling and production activities on limited areas of several acres are much less than the devastation caused by prescribed burning.

... * * *

51. In terms of comparing fire-induced impacts with those caused by oil and gas exploration and production, including the use of seismic exploration vehicles, the vegetation of Big Cypress National Preserve has evolved in conjunction with the natural occurrence of fire. Fire is a dominant component of the natural ecosystem in south Florida. Under natural conditions fire has contributed significantly to the maintenance and perpetuation of ecological communities throughout the Big Cypress area, and the use of prescribed fire seeks to replicate this natural process. Fire has resulted in particular accumulations of genes in vegetational and wildlife communities, where they multiply and increase. Unlike fire, impacts of oil and gas exploration and development, including impacts associated with seismic exploration vehicles, have not been a part of the development of the Big Cypress ecosystem.

51.

Under the proposal, new access roads and pads would not be permitted in order to protect and preserve these nationally significant and highly sensitive resource areas. Prohibiting the construction of access roads and pads in these community types would not make these areas totally off-limits to exploration and production. The use of directional and horizontal drilling and production techniques from surface locations adjacent to these important resource areas

would provide access to the oil and gas reserves. See response 50 for a comparison of impacts from oil and gas activity and from fire.

52. The text has been revised to indicate that stipulations would be designed to minimize the risk of such occurrences.

53. Refer to revisions in the "Minerals Management Plan" (appendix C) pertaining to seismic exploration in important resource areas. The text has been revised to indicate that stipulations would be designed to minimize the risk of such occurrences.

54. The National Park Service would allow seismic exploration, including vehicle access, in old-growth pinelands subject to the revised stipulations in the "Minerals Management Plan" (appendix C) and the 10 percent area of influence threshold. Vehicle routing stipulations are retained because the National Park Service has primary responsibility for managing oil and gas activity in the preserve. See response 50 for a description of the distinctions between impacts resulting from oil and gas explorations and from fire.

55. This section has been revised. The National Park Service continues to recognize the importance of protecting second-growth pinelands in order to ensure ample habitat for the endangered red-cockaded woodpecker in Big Cypress National Preserve.

Impacts on Marshes

Page 231: If oil and gas operations were to occur north of US 41, there would be a threat to marsh productivity in the Starbuck unit from altered water flow and decreased water quality (including saltwater intrusion).
Response: Collier objects to this statement because NPS has presented no data or supporting statements which provide any basis for doubting that appropriate minerals management stipulations would not provide adequate protection. No documentation or discussion is presented in DIGHT/DEIS to describe how saltwater intrusion would be the result of oil and gas operations.

52

Impacts on Manicrove Forests

Page 232: If activities for oil and gas production were to occur south of US 41, there would be a threat to manicrove productivity from altered water flows and decreased water quality.
Response: Collier objects to making these areas totally off-limits to seismic exploration. This concern is unfounded. With the exception of the single brine leakage incident which has been remedied, NPS offers no data to support its conclusion that manicrove productivity (or any vegetation type for that matter) has been impacted by alteration of flow or water quality.

53

Impacts on Old-Growth Pinelands

Page 233: The proposal of the minerals management plan to control geophysical activities for oil and gas would restrict vehicle access in old-growth pinelands to prevent soil degradation, vegetation damage, and impacts to red-cockaded woodpeckers.
Response: Collier objects to making these areas totally off-limits to meaningful seismic exploration. Vehicle routing is not an issue because it is effectively controlled by routing limitations in PDNR and PDNR geophysical permit conditions. NPS presents a gross inconsistency in management of these areas since those old-growth pineland communities are subject to natural fires and prescribed burns. The impact of seismic activities on understory are not even measurable against the devastation caused by fire.

54

Page 233:

...oil and gas developments could impact younger stands of pines, thus possibly reducing available red-cockaded woodpecker habitat over the long term.
Response: Collier objects to that NPS now appears to be extending its concern to second-growth pinelands, potentially restricting even greater areas of operations. NPS presents a gross inconsistency in management of these areas since those second-growth pineland communities are subject to natural fires and prescribed burns which clearly would reduce the available red-cockaded woodpecker habitat over the long term to a much greater level than oil and gas operations.

55

Impacts on Hardwood Hammocks

Page 284: Proposed controls on oil and gas geophysical operations, as proposed in the university management plan (see Appendix C) would protect hardwood hammocks from vehicle access, thus preventing soil erosion and vegetation damage.

Response: Collier objects to making these areas totally off-limits to meaningful seismic exploration. Vehicle ridding is not an issue because it is effectively controlled by existing limitations in YDNR and FDES geophysical permit conditions. Also Collier comments in Section VII. NPS presents a gross inconsistency in management of these areas since these hardwood hammock communities are subject to natural fires and prescribed burns. The impacts of seismic activities on understory are not even measurable against the devastation caused by fire.

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56. Hardwood hammocks are very small, densely forested tree-islands, with soft and moist soils. Scattered throughout the national preserve, they also contain the vast majority of archeological sites known in the preserve. Because hardwood hammocks are unique, small, densely vegetated, have soft and moist soils, and are likely archeological sites, the National Park Service intends to strictly limit vehicle access to them. These areas are not "off-limits" to seismic exploration. Seismic exploration may be permitted in such areas subject to the revised stipulations in the "Minerals Management Plan" (see appendix C). See also response 54 concerning vehicle ridding.

Impacts on Florida Panthers

Page 285: Helicopter use in geophysical operations, as has been required in the BOMP to minimize impact to vegetation, soils and water, could also affect panthers.

Response: Collier objects because this statement is not substantiated in the literature or by empirical data.

...

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57. Scientific literature and other references cited in the final document support the fact that helicopter use adversely impacts wildlife.

Impacts on Cane Sable Seaside Sparrows

Page 286: It is important to note that oil and gas explorations and development might increase substantially, resulting in possible increased impacts to panther populations.

Response: Although oil and gas activities might increase substantially, Collier objects to the conclusion about its impacts on panthers because this conclusion is not substantiated in the literature, or by empirical data.

...

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58. Federal, state, and academic wildlife biologists, as referenced in the draft GMP/EIS, have recognized that the decline of the Florida panther can be attributed to a number of factors, including but not limited to environmental stress and the loss of habitat quality due to hunting, ORV use, other backcountry recreation, agriculture, urbanization, road construction, and mineral exploitation and industrialization (USFWS 1987a). A substantial increase in oil and gas activity in the preserve could increase pressure on the panther population.

Impacts on Cane Sable Seaside Sparrows

Page 287: Since all sparrow habitat within the BOMP is in marshes in the Staircase unit south of US 41, no drilling or production activities would be allowed under the proposed action, and no direct impacts should occur relative to these types of activities.

Response: Collier objects to making the entire Staircase unit totally off-limits to exploration drilling and production. As with protection of other habitats, decisions regarding sparrow protection should be made on a case-by-case basis, relying on site specific information. This blanket exclusion is contradictory and ignores the ability to conduct some oil and gas activity in a manner consistent with sparrow protection.

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59. The entire Stairsteps unit is not "totally off-limits" to exploration drilling and production. Surface occupancy for drilling and production purposes may be allowed in areas within the unit not defined as important resource areas.

Impacts on White-Tailed Deer and Feral Hogs

Page 242: Deer could be more affected by oil roads and pipelines that could subdivide established home ranges as well as engine noise and lights associated with well drilling.

Response: Collier objects because all operations have been shown to be consistent with deer management in the BCNP. Collier's consultant (Lee 1980) has observed that the pads and roads are used extensively by deer. Further, an avoidance behavior has been demonstrated as a result of noise. Deer use the pads and roads regularly for rest, feeding, and refuge from high water.

...

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Page 245: It has been estimated that a drilling rig operating in the BCNP is audible over a radius of at least 8 miles.

Response: Collier objects because noise data cited by NPS does not demonstrate an audible impact at this distance. This conclusion is directly contradicted by empirical data collected by Collier's consultant (Lee 1980).

...

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Impacts on Air Quality

Page 247: In a general sense, geophysical activities would affect air quality because of vehicle use.

Response: Collier objects because in a "general sense" there is no data that would suggest that current vehicle use in any way is degrading air quality. The impacts of geophysical activities cannot be measured against such an unknown and undocumented standard.

...

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Page 248: Impacts on air quality associated with all field developments would occur from fugitive dust created by earth moving, clearing, and vehicle travel; gaseous emissions from well fluids, and by-products from propane-fired "bender heaters."

Response: Collier objects because there is no data that would suggest that current impacts from Bear Island or Racoon Point in any way are degrading air quality. The impacts of drilling and production activities cannot be measured against an unknown or undocumented standard. The impacts of fires and prescribed burning, aircraft and other vehicle exhaust, and other industries and agriculture within the stretch of South Florida Air caused any possible impact of all activities. NPS presents no data leading to show that all and gas activities would cause a violation of any applicable air quality standard.

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60. Scientific literature referenced in the final GMP/EIS supports the fact that wildlife, including ungulates, exhibit avoidance behavior when faced with new and unusual noise and intrusions. Habituation by deer to oil and gas operations does not mean that the activity is consistent with deer management in the preserve.

61. The final GMP/EIS notes that a drilling operation in Big Cypress National Preserve is audible at a radius of at least 1.75 miles, as documented by Vibra-Tech South Corporation (1986).

62. It is widely recognized that combustion engines, including motorized vehicles used in geophysical operations, emit pollutants into the atmosphere. Principal pollutants consist of carbon monoxide, sulfur dioxide, nitrogen dioxide, and hydrocarbons. Vehicle usage in the preserve is certainly impacting air quality, but pollutant levels and actual impact directly attributable to vehicle use has not been documented. However, as stated in the final GMP/EIS, air quality degradation associated with the operation of geophysical survey vehicles would likely be temporary and localized along survey lines. The impact of emitted pollutants from geophysical vehicles is not expected to cause detectable changes in vegetation growth, reproduction, or overall health.

63. The draft GMP/EIS does not assert that oil and gas operations in Big Cypress National Preserve are in violation of an applicable air quality standard. Emissions data submitted by Collier show that the Racoon Point production site emits 0.092 ton per year (TPY) of particulate matter, 17.17 TPY of carbon monoxide, 68.19 TPY of nonmethane VOC's, and 128.02 TPY of nitrogen oxides. Although no data were submitted by Collier for the Bear Island production site, the National Park Service believes that pollutant concentrations are similar to the Racoon Point site. The release of pollutants at these reported concentrations is certainly degrading air quality in the immediate vicinity of both locations. The impact resulting from the release of such pollutants at Racoon Point and Bear Island has not been thoroughly investigated. However, the National Park Service has observed discoloration of sensitive vegetation species, particularly epiphytes (e.g., bromeliads, orchids, and lichens) within a radius of at least 0.3 mile of these production sites, indicating a possible adverse effect from air pollution.

Fugitive dust is generated during road and pad construction when crushed limestone is used, and from vehicle use of limestone roads. The dust is

deposited on nearby plants, reducing the potential for photosynthesis. However, such an impact is not expected to have a significant effect on vegetational composition.

The National Park Service recognizes that prescribed fires temporarily degrade air quality, and for this reason smoke management is an important factor in planning and executing all prescribed burns in the preserve. See responses 50, 62, and 63.

The North Dakota example serves to advise the public that an accidental release of a toxic gas could adversely impact wildlife. In order to clarify the referenced situation, the final GMP/EIS states that through proper and safe drilling and production, the toxic release of hydrogen sulfide is unlikely in the preserve. However, the accidental release of toxic or noxious pollutants is possible, and direct wildlife mortality could occur. In July 1987 the Raccoon Point field wells 33-1 and 34-3 developed casing leaks, resulting in the production of H₂S at approximately 100-200 ppm. The operator took the necessary precautions to prevent the release of H₂S; however, H₂S at these concentrations does pose a threat to both wildlife and humans.

The final GMP/EIS states that the Raccoon Point production field is a "prominent point source" of air pollution within Big Cypress National Preserve.

The environmental consequences of noise have been integrated into wildlife and user impact topics.

Page 241: Air pollution injures plants by affecting growth, reproduction and survivorship. Collier objects because NPS cites no data that would suggest that current oil operations in any way are degrading air quality, much less impacting and injuring plants. Prescribed burns and natural fires degrade air quality, and cause for more direct injury and destruction of plants.

Page 241: there are instances where animal species (often birds, fish and insects) are injured without a plant species having a major role in their toxicity. An example of this is cows dying from hydrogen sulfide at a production well facility in North Dakota. Collier objects because there is no data existing for operations similar to Raccoon Point or Bear Island where any air quality degradation is impacting birds, fish or insects (other than bats lost to gas flares). Further, the use of the North Dakota example is not relevant since hydrogen sulfide does not exist in sufficient amounts to be injurious in any manner.

Page 241: The Raccoon Point field is a major source of air pollution. Collier objects to this statement because the observed maximum of 360 tons per year of pollutants only classifies this facility as Raccoon Point as a minor source (rather than major source) for air permitting regulatory purposes. The amount of emissions has been determined to be less than one-half the permitted maximum. In reality, the air emissions of the oil operations pale in comparison to emissions from NPS prescribed burning.

Impacts on Noise NPS does not consider noise in the discussion of the environmental consequences section. Collier finds it troublesome that NPS relies on an analysis of "noise" in the development of the "area of impact" (two miles for noise) on one hand but does not discuss the environmental consequences of noise. Thus, the consideration of the proposed action with regard to potential noise impacts is different from the NEPA perspective.

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68. See response 5.

V. THE 'AREA OF INFLUENCE' DISTANCES

The technical merits of the 'Area of Influence' concept as proposed in Appendix B of the DQMP were examined in the context of actual oil exploration and production as they have occurred most recently under permit conditions/submissions. Particular emphasis was given to follow-up examinations of the very few specific events such as the brine leakage at Racoon Point as reported by Roy, et. al.(1987). Overall, it is Collier's view that operations at Racoon Point are considered a model that represents the levels of environmental protection that can be expected and provided by industry in the BCNP.

The retrospective analysis of industry operations provided to the NPS by Tetra Tech in 1987 provides generic historical documentation of problems that have occurred in the oil exploration and production industry. Many of Tetra Tech's views of the industry are based on '20-20 hindsight' with many additional references to operating conditions not found in South Florida. Collier's position is that all predictions regarding environmental impacts of proposed oil and gas activities must be considered prospectively based on what can be anticipated given current, permit conditions and operating methods (i.e., the Racoon Point model).

This position is based on a thorough review of the literature presented in support of the NPS position and review and analysis of operational procedures by Collier staff and consultants, reinforced by site specific studies and review by Law Environmental, a multi-disciplined environmental consulting firm with considerable experience in South Florida.

The DQMP proposes an area of influence concept to arbitrarily limit exploration efforts using a ten percent impact limit concept. Collier has presented additional arguments against the 'ten percent' concept in other sections of this document. It appears to Collier that the area of influence concept serves no purpose other than as a mathematical inflector which greatly overstates what appears to be the actual impacts. The DQMP justification for 0.5-mile limit was clearly examined. The selection of the generalized area of influence distances of 0.5-mile it appears only as a footnote in Table B-4, but states "Unrestricted Area of Influence for criteria."

Collier has reviewed the cited references in Table B-4 and finds an substantive justification for what the DDMIP characterizes as "his best professional judgment of the NPS." This DDMIP appears to have "borrowed" the 9.5-mile distance from a 1987 DIEDA Forest Service on affluents to a biological assessment related to oil and gas operations in a Wyoming National Forest area, hardly a definitive scientific work. This referenced work and the "best professional judgment of the NPS" do not combine to provide adequate justification for a 0.5 mile area of influence for adjacent lines, roads and jobs. Such an arbitrary distance is a critical point to Collier because the net effect of its application creates an area of "existing direct disturbance" to 30,489 acres, as opposed to an "area of direct disturbance" of 30,489 acres (the directly impacted area beneath the footprint of the pads and roads) which Collier contends is a more realistic assessment.

Collier has prepared table (Table 8) shown below that depicts its estimated the following "Area of Influence" as substantiated by the literature, field studies and best professional judgment of other professionals.

TABLE 3
COLLIER AREA OF INFLUENCE
PROPOSED FOR EACH CRITERION

Criterion	Area of Influence Distance	Justification
Noise	footprint road/pad to audible level	Analysis of industry operations Literature on noise vs. wildlife Time versus duration of impacts Field verification of high ambient
Visual Quality	100 yards	Most operations masked by vegetation Production operations low-profile Highly subjective
Hydrology	not measurable	All hydraulic head differentials eliminated by design; no documented significant hydrological changes
Water Quality	measurable only in accident scenario case-by-case	Cited brine spill (1987) corrected by new field methods; impact of spill in old pipeline not properly assessed by NPS; new pipeline standards should remedy similar occurrence
Odor	footprint of pad/road	NPS incorrectly used North Dakota scenario that does not apply
Vegetation and Soils	footprint of pad/road	Field studies indicate no vegetation or soil impacts
Air Quality	footprint of pad/road	NPS incorrectly used North Dakota scenario that does not apply; high ambient due to NPS burning, wildfires
Wildlife	footprint of pad/road	Wildlife use all roads and pads
Visitor Use/ Perceptions	none established	Mineral owners have equal or greater right to be in the BCNP area than visitors. BCNP created as watershed buffer with ancillary uses that include visitors

69. The best available information at the time the draft GMP/EIS was prepared showed ambient noise levels in Big Cypress National Preserve to be at or below 40 decibels (Vibra-Tech South Corporation 1986). The monitoring equipment used in the referenced investigation had a minimum detection limit of 40 decibels. Data submitted by Collier shows an ambient noise range of 24 to 40 decibels in the preserve, depending on the contribution by insects. This new information is referenced in the final document.

NOISE IMPACTS

Collier takes exception to the DGMF's methodology and the resulting conclusions in the evaluation of noise impacts. Our concern begins in the opening sentence of the discussion of noise by DGMF (page 824) which states:

Noise caused by human activities, especially those from a fixed source, can significantly alter the actual and perceived character of the BCNP.

Since DGMF acknowledges that "no ambient noise levels have been recorded in the BCNP" (page 828) the entire discussion on noise issues is incomplete. As Collier's request for Environmental Impact Studies to further document noise impacts. These studies show that noise impacts are limited to a relatively narrow window of influence that extends from the source (and footprint) not to some distance where just noise is barely audible and distinguishable from background levels. Since the fixed-source operations on existing paths in Raccoon Point, for example, have relatively low source levels (70-85 decibels as opposed to 110 decibels), these operations may not be audible to humans more than one-half mile to a mile from a path depending on background levels. Noise emissions from vehicles on the route (according to DGMF) would not be a significant source that would alter the actual character of the BCNP.

Collier believes that the major alteration of the character of the BCNP by elevated noise levels would, for the most part, take the form of a wildlife avoidance behavior. A secondary concern would occur if human visitors would be all expansion areas because of noise. The Law Environmental studies and the DGMF-cited literature related to the impacts of low-level noise on animals show that low-level noise is tolerated by key BCNP species. The Florida panther, black bear, white-tailed deer and Red Cockaded woodpecker all show a remarkable tolerance for low-level industrial noise. The question of human avoidance of all operations on the basis of noise has not been documented in the BCNP. However, there is field evidence that back-country hunting and OHV recreation activities take place in close

proximity to the infrastructure of existing roads and pads, which tends to indicate that BCNP users tolerate the noise.

Collier finds serious fault with the conclusion by DQMP that background noise levels are in the 50 dBA level range. Studies by Law Environmental (1980) indicate possible quiet periods for short duration in the range below 50 dBA level, but, for the more professional values are in a range of 55-65 dBA level. The background noise data from studies conducted in Bryce Canyon or Glacier National Park cited in the DQMP are not applicable at BCNP and it gives an incorrect view of BCNP conditions. Noise levels taken in a geographically remote area, in the middle of the night, in winter and in an enclosed canyon (Bryce) simply are not representative of the conditions in BCNP. The BCNP has a relatively high background noise level as a result of wind, insects, proximity to a high-traffic airport (Grand International), a trailing airport within the BCNP highway boundaries, military aircraft and highways bracketing the BCNP. Additionally, other users such as recreationalists may bring noise sources (vehicles and generators) into more remote areas of the BCNP.

The reliance on the Exxon study (Vibra-Tech South, 1986) highlighted extremely short-term conditions in the life of a drilling operation. Pile driving of a conductor casing over a two-day period cannot be used as a fair benchmark of normal oil and gas operating noise levels. Exxon chose to use a pile hammer to drive the conductor casing rather than drilling a large diameter hole and setting the casing. This single engineering decision on the part of Exxon created a set of data that indicates a 110 dBA level can be detected at two miles. Should Exxon have used the drilling option to place the conductor, the levels would have been in the 85 dBA level range and much less audible in the surrounding area.

VEGETATION AND SOILS IMPACTS

The impact of oil and gas operations on vegetation and soils is limited to the direct impacts or footprint of the roads and pads. As the DQMP acknowledges, this amounts to a total of 200 acres. The distance of 1,000 feet that is used to determine the area of influence

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70. References to background noise data collected in Bryce Canyon and Glacier National Park have been eliminated from the document. See response 69.

71. The noise data reported by Vibra-Tech South Corporation (1986) is valid in terms of defining the noise detection radius during oil and gas well drilling operations in Big Cypress National Preserve. Using ambient noise data supplied by Collier, the Vibra-Tech study shows that a drilling operation is detectable at a distance of 1.5 miles during typical rotary drilling operations and at 1.75 miles during pile hammer use.

72. Appendix B of the final GMP/EIS has been revised and shows a potential radius of influence from oil and gas operations on vegetation and soils of as much as 0.5 mile.

73. The final document recognizes that soil compaction associated with cross-country geophysical surveys is reduced considerably when operations are conducted in accordance with applicable stipulations contained in the "Minerals Management Plan" (appendix C).

74. The draft GMP/EIS does not suggest that shock waves generated by typical subsurface seismic detonations will "compact the limestone rock near the surface across the entire Big Cypress National Preserve." Rather, the document expresses concern that localized compaction could occur from the use of heavy vibroseis and "thumper" equipment. Stipulations in the "Minerals Management Plan" would preclude cross-country use of vibroseis and thumper equipment in the preserve.

75. The document has been revised to state that shot-hole reclamation requirements would reduce the number of typical small elevated circular areas devoid of vegetation (i.e., sediment islands).

76. The final document states that reclamation stipulations would considerably reduce the possibility of exotic species establishment at shot-hole locations.

<p>on vegetation and soils is apparently that in the Shiloh incident of the brine leakage as reported in the Boy, et al. (1987) study. The brine leakage incident has been remedied by a change in operation procedures that are aimed at eliminating similar situations. Collier's review of the literature and the field investigations of Law Environmental, (including at the leak site) lead to the conclusion that there are no other instances where vegetation or soils have been impacted outside of the road/pad footprint. The IGMP acknowledges that "examples of impacts on vegetation from hydrological changes in the BCNP are not available." (page 255, emphasis added)</p>
<p>Seismic testing recently conducted by Shell Western also provides a factual basis against which to judge IGMP statements regarding soil impacts from geophysical operations. Soil compaction does not occur with light equipment having a ground pressure of one or two pounds per square inch. Shock waves do not compact the limestone rock near the surface across the entire BCNP. The concept of "sediment islands" that was proposed by IGMP during early negotiations with Shell Western was addressed in permit conditions, and follow up studies over miles of old sediments has conclusively demonstrated that there are no "sediment islands."</p>
<p>Further, monitoring of small disturbed areas indicates that they are not "prime" areas for exotic vegetation establishment; natural revegetation has been rapid. Vegetation and soils issues can be described succinctly as one of reclamation success or failure. Stipulations that require the development of a detailed reclamation plan can ensure a large measure of success. Pads and roads will be returned to pre-existing grade and suitable soil materials will be returned to the surface as a seedbed for revegetation. All that remains is the time required for plants to grow. Studies on existing abandoned pads by Dr. Taylor Alexander and Dr. Michael Duever's studies (1986) indicate that natural revegetation takes place rapidly and establishes a strong foothold in the first year or two after abandonment. The pervasive problem of exotics requires that monitoring and further restorative activities take place on a routine basis for some time. Collier's view on exotics in that all interests should be concerned and cooperate in solutions.</p>

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WILDLIFE IMPACTS

Analysis of data provided from DGMF cited literature and recent field studies from Law Environmental demonstrates that the actual impacts on wildlife are confined to the road/pad footprint. The DGMF has presented no data upon to support its conclusion that there is a sizeable zone of influence surrounding oil and gas operations. Indeed, it contends that there is no data on road kill poisonings or toxic effects and that mortality from illegal shooting or traps is mainly because of prohibitions by permit conditions (page 354).

The Law Environmental studies (1990) examined the data on human interactions related to the Florida panther and concluded that the industrial activities of an oil and gas production operation were similar to agricultural operations where extensive data exists on cultured animals. The Florida panther appears to be influenced more by prey relationships rather than human interaction.

HYDROLOGIC IMPACTS

The DGMF proposes an area of impact by hydrologic impacts which extends 500 feet from operations, but cites no data demonstrating that the actual impacts extend beyond the area of the road/pad footprint. Moreover, although the DGMF states that:

"an inventory of abandoned oil and gas sites in the BCMP has indicated a difference in the hydrologic base in different locations of pads and roads and differences in water depths (DPS 1985a)," (page 300), it elsewhere concludes that

"examples of impacts on vegetation from hydrological changes in the BCMP are not available" (page 330).

Since there is no evidence of the impacts on vegetation caused by hydrologic alterations, the fact that a head differential was detected does not constitute an "impact." Law Environmental's conducted field investigations to determine if hydrological impacts could be observed via vegetation indicators and concluded that any such impacts simply cannot be measured or documented. In any event, head differentials can be prevented (or corrected) by

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77. Scientific literature referenced in the final GMP/EIS shows that human activities, including oil and gas operations, can adversely impact wildlife beyond the road and pad footprint. See responses 57, 58, and 60.

78. Hydrologic impacts associated with access roads and pads can be reduced by aligning roads parallel to the predominant flow and by properly placing appropriately sized culverts to ensure water exchange. However, many abandoned and unreclaimed access roads and pads that were originally constructed in Big Cypress without regard to hydrologic maintenance continue to impede surface water flows. In the final GMP/EIS the radius of hydrologic influence in the vicinity of such abandoned and unreclaimed access roads and pads has been revised to 300 feet, based on additional information.

<p>Installation of culverts, a process contemplated in the stipulations proposed in the mitigation management plan.</p>	<p>WATER QUALITY IMPACTS</p> <p>The DGMF "generates areas of influence" for water quality out 1,000 feet from oil operations. Apparently this distance was established by considering the Bay, et al (1987) impact study and the water concentration area (A) pipeline spill (out in the BCONP). The DGMF, however, admits a lack of monitoring and research on this issue (page 352). The issue of influence for water quality concerns should not be derived from a single brine spill incident that was rectified by operational changes and a pipeline spill in a heavily vegetated region that impacted areas only 300 feet from the leak. In both instances, restoration was completed by a combination of cleanup operations and natural recovery.</p>
<p>79.</p>	<p>The DGMF statement on groundwater contamination by seismic shot hole drilling is totally unfounded. Shell Western's operations were limited to a depth of 27 feet to preclude cross-contamination. This voluntary limit of 27 feet was proposed by Shell Western to eliminate the possibility of aquifer mixing. Brine disposed into the "boulder zone" is an accepted practice that is permitted and monitored by the Florida Department of Natural Resources and the U.S. Environmental Protection Agency under Class II well permits. There are only two Class II wells in the BCONP.</p>
<p>80.</p>	<p>The DGMF's description of the Burnland Pipe Line Company spill in 1988 is inaccurately characterized. The spill as described by DGMF was purported to have "dumped" 5,000 gallons of produced oil, creating a 4-mile-long plume approximately 200 feet wide, affecting about 100 acres. In fact, a series of small leaks occurred over a 1.8 mile portion of the pipeline (not characterized as a plume) and the oil was contained by vegetation to a zone within a maximum of only 200 feet from the pipeline. Cleanup of the spill was immediate and to the satisfaction of all environmental agencies. Repair involving replacement of segments of the pipeline were completed soon thereafter.</p>

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Appendix B has been revised and shows that water quality can be affected at least 0.5 mile from oil and gas facilities following a spill.

The National Park Service cannot discount the potential for groundwater commingling and cross-contamination resulting from seismic shot-holes based on a single operation. Even though Shell Western limited shot-hole drilling to a depth of 27 feet, the vast majority of proposed seismic operations call for shot holes to be drilled to depths of 100 to 125 feet. The National Park Service considers this to be a valid concern.

The final GMP/EIS notes that brine disposal into the "boulder zone" is subject to class II well permits issued in accordance with federal and state regulations.

The final document reflects that the referenced oil spill resulted from several leaks over a 1.8 mile segment of the pipeline. However, an area 200 feet wide by 4 miles long was adversely impacted as a result of the oil leaks.

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The DGMF scenario that has a subsurface leak introduces crude oil, natural gas or brine into the groundwater system maintaining the remedy by an incorrect use of terminology. The DGMF seems to equate 'groundwater system' with 'potable groundwater' although the potable groundwater is only the uppermost portion of the groundwater system. The fact is that Class II disposal wells are injecting into the groundwater zones below the potable levels at a depth where the dissolved solids content of the injected fluids is compatible with the chemical composition of the water in the injection zone. The groundwater system, from a technical standpoint, even extends downward into the oil producing zones of the Sunland formation. The groundwater pressure at this level forces the oil into the well. The near surface zones of potable water are used off from well bore fluids by at least four casing strings and cement (required by DGMF stipulations) when the well is in a production configuration.

AIR QUALITY AND ODOR IMPACTS

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Air quality and odor are discussed together because the one mile impact area was determined by DGMF using the same emissions information. According to FDNRR, the gas from wells in the Sunland formation contains hydrogen sulfide in the range of non-detectable to trace amounts. The DGMF air quality and odor impact case proposals drew heavily on an incident at Theodore Roosevelt National Park in North Dakota. The gas produced from fields adjacent to Roosevelt contains up to 10 percent hydrogen sulfide, while HSNP production is practically devoid of this gas.

The analysis conducted by Law Environmental concludes that any impacts from oil operations will be barely masked by the background of emissions and odors caused by controlled or wildfire burning.

VISUAL QUALITY IMPACTS

Visual impacts is a subjective exercise and beyond the scope of these comments.

83. This distinction is in the final document.

84. References to odor have been integrated with the discussion of air quality impacts in the final document. The final document recognizes that hydrogen sulfide production in the vicinity of Theodore Roosevelt National Park is typically greater than in the Big Cypress area. However, oil and gas development in the preserve, particularly production operations (e.g., the Raccoon Point and Bear Island fields), emit odors that may adversely impact wildlife. Odors are generally localized in the area of operations, and detection and impact should be limited to a radius of approximately 0.25-0.5 mile. See responses 62, 63, 65, and 66.

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VII. SPECIFIC COMMENTS TO DRAFT MINERALS MANAGEMENT PLAN

The material set forth in Appendix C of the DOMP as a "minerals management plan" is nothing more than (1) a set of procedures for obtaining approval of a plan of operations for oil and gas exploration or development in BCNP and (2) a set of general operational stipulations which the DOMP apparently proposes to implement without deviation without regard to the site of the proposed activity, the nature and scope of the project proposed, or the project's proposed environmental protection and mitigation components. Collier believes that in many respects both aspects of the minerals management plan go far beyond the requirements of 36 C.F.R. Part 9 Subpart B, which are the existing regulations governing access to privately owned minerals in the BCNP. Proposed revisions to these controlling OB regulations have been before the DGMF Director for almost a year and reportedly will be published as proposed rulemaking in the near future. Moreover, the NPS' request for public comments on these proposals borders on the demanding, inasmuch as the Superintendent of the BCNP appears to have already prejudged their merits by having published on October 12, 1985, without the benefit of public comments, substantially identical material labelled "Standard and Requirements for a Plan of Operations for Geophysical Operations for Geophysical Exploration in BCNP". Consequently, Collier seriously questions the utility of commenting on the proposed stipulations, many of which are unrealistic and, if actually implemented, would be so financially burdensome as to make many projects economically infeasible, again raising serious "taking" issues with respect to Collier's mineral interests.

However, if the proposed minerals management plan is only a policy statement, as Collier contends it should be, we are confident that we can negotiate plans of operations for actual projects which will fully protect the BCNP's resources and permit Collier to develop its minerals in an economically feasible manner. That this can be done is amply demonstrated, at least with respect to seismic operations, by the Shell Western plan of operations that was

85. The "Minerals Management Plan" (MMP) is an action plan that addresses implementation of the minerals component of the GMP in more specific terms. The MMP prescribes standards related to access, operations, reclamation, compliance, and monitoring so that mineral activities meet the management objectives presented in the GMP. Both aspects of the MMP - approval procedures and operational stipulations - are strictly based on the provisions of the 36 CFR 9B regulations.

approved by the NPS in 1969, after lengthy negotiations. In a number of ways, the result was a more meaningful, reasonable approach than the current proposals.

The staff of Collier and its consultants have reviewed 'Appendix C: Minerals Management Plan,' pages 841-866 of the DQMP/DEIS, and provide the following comments and suggested changes:

PROPOSED GENERAL STIPULATIONS

Important Resource Areas, pp. 844-846 --

While Collier does not find fault with the concepts of mapping important resource areas and managing the oil and gas exploration activities according to the suitability of these areas, it does not follow that certain activities such as carefully planned and controlled seismic testing should be prohibited in all such areas. That would result in the creation of large areas in which the application of the management zoning strategies as discussed in the DQMP/DEIS would impose nearly total restriction on access for seismic testing. These restrictions, for example, create a situation where cost-effective, accepted geophysical (seismic) exploration methods cannot be used.

Land and Minerals Ownership, p. 846 --

The statement:

As of 1969, approximately 351,121 acres have been acquired in fee by the federal government for administration by the National Park Service. (emphasis added)

is an incorrect statement. This fee interest was not obtained for the lands acquired from the Collier interests. The term 'fee' is a legal term of art which means all of the rights were acquired. Clearly, as stated in subsequent discussion on page 846, the Collier interests retained the mineral estate in all property transfers that led to the creation of the BCONP.

Environmental Impact, pp. 850-851 --

Collier does not find fault with the elements offered to assist in the preparation of a plan of operations. However, additional consideration should be given to the preparation of a

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86. Seismic testing is not precluded in important resource areas. The applicable stipulations, as revised, only limit the methods of acquiring data to ensure the proper protection of the resources. See response 21.

87. The document has been revised to indicate that the acquisition is in fee but subject to outstanding oil and gas interests.

88. A requirement has been added to the document for the operator to conduct a pre-operation vegetation survey, which would also document the presence and density of exotic plant species.

- 89. Reclamation cost estimates are required in a proposed plan of operations pursuant to the regulations at 36 CFR 9.36(a)(13). These estimates are necessary for the National Park Service to determine the appropriate amount of the operator's performance bond or security deposit.
- 90. Standards defining when reclamation is deemed complete (e.g., percent cover, vegetation species density and diversity) would be specifically addressed by the superintendent on a case-by-case basis, depending on the location of the proposed operation.
- 91. Methods to control exotic plant species on sites disturbed during mineral operations would be required in a proposed plan of operations.

<p>vegetation survey to describe the levels of invasion by exotic plant species in the area to be impacted by oil and gas activities. Such a study would give the applicant and the NPS a clear benchmark to which reclamation success can be judged after active plant control is a critical management issue in the BOMP.</p>	<p>Reclamation Requirements, p. 361 --</p> <p>The required elements in a reclamation plan are to include:</p> <ul style="list-style-type: none"> a breakdown of costs during all phases of reclamation during the conduct of and at the completion of proposed operations; While Collier does not necessarily object to this provision, the exercise seems to be of questionable value. The reclamation plan should follow the reclamation standards provided by regulations as they apply to the specific set of circumstances proposed by an applicant. <p>Preparation of a plan that includes timing and phasing elements and benchmarks and standards is sufficient for planning purposes. Cost breakdowns have little meaning in the context of long exploration and production time frames are considered. Bonding requirements by NPS and by the Forest Department of Natural Resources can be used to insure completion of reclamation plans, if this is the objective of requiring a cost breakdown.</p>
<p>Of particular importance to Collier and other potential operators is that an operational end or time frame be established for when monitoring and active long-term vegetation "maintenance" ceases to be the responsibility of the operator.</p>	<p>Reclamation Requirements, p. 361 --</p> <p>Collier suggests that a reclamation plan be required to include a specific plan for control of exotic plant species on areas impacted by oil and gas exploration and production activities.</p>

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Stipulations, p. 355 --

Collier agrees that stipulations may be implemented under 36 CFR 9B. However, Collier strongly objects to the "ten percent area of influence stipulation," the "Bear Island

stipulation,' and to certain provisions of the 'important resource area protection stipulation.' As described elsewhere in these comments, these stipulations are arbitrary and confusatory.

Ten Percent Area of Influence Stipulation, p. 303 -

Collier strongly objects to the concept of any percentage limitation on exploration and development activities and to the methodology used to develop conditions placed on operations. If implemented, this stipulation would severely limit the rights of the Collier interests to explore for oil and gas. As discussed elsewhere in these comments, the methodology used to determine areas of impact is improper and is an extremely subjective exercise that does not reflect an accurate picture of actual impacts documented for existing exploration and production operations and for geophysical operations.

Bear Island Stipulation, p. 304 -

Collier strongly objects to the concept of limiting oil and gas operations to existing roads and pads in the Bear Island Unit. This limitation, as shown, would seriously preclude any further exploration of the oil and gas resources beneath this area. The clear message of this stipulation is that all future exploration will be conducted by directional drilling from existing pads. Directional drilling from existing pads to expand the field limits of Bear Island might be a workable option on a limited basis for the existing operator (Exxon). However, not speaking for Exxon, but rather as a significant industry member, Collier asserts that no further significant exploration could be accomplished. Exploration companies simply will not commit to an exploration program that relies solely on directional drilling methods.

Collier's analysis of prospects in the Sunnland Trend leads us to believe that there remains new field potential in the Bear Island Unit that cannot be reached by directional drilling from the existing of roads and pads. The DJMF summary of the 'impacts of the proposed action' in the Bear Island Unit on page 164, states that: 'in Bear Island (field) and South of Bear Island (field) approximately 80% of oil and gas resources [are] accessible.'

92. See responses 4, 5, 6, 7, 9, 24, and 40.

93. See response 20.

94. The National Park Service agrees with this concern and has revised the document accordingly. Operators would be responsible for reclaiming disturbed areas in compliance with the regulations at 36 CFR 9B. Within the Bear Island unit at least one-to-one mitigation would be required before the construction of any new road or pad. At least one-to-one mitigation could also be required in other units. This approach is in keeping with the EPA's and Corps of Engineers' goal of no net loss of wetlands under section 404 of the Clean Water Act.

Clearly, this stipulation would be a direct and measurable taking of at least the remaining 20% of the resource.

With this stipulation in place, South of Bear Island Field, where Collier anticipates further exploration and discoveries as the exploration activity matures, we would expect a similar reduction in production from any new fields on the Sunniford Tract and offsetting Bear Island or Pepper Hammer within the Bear Island Unit. Collier disagrees with the DGMF proposal that a "waiver of on-site reclamation normally required under 36 CFR 9B for the existing operator" could be used as some form of mitigation. At best, the effect of this provision would be the transferring of an inequitable share of the reclamation costs to the "last operator" in the field. Further, this concept does not take into account the historical situation wherein the existing roads for oil exploration and production were for the most part built on or along previously impacted corridors. The "last operator" in the field would then be responsible for the reclamation of roads and pads from previous oil operators (whose operations might not have met current environmental requirements and for which there may be long term inhibition) and any undifferentiated impacts related to land uses that pre-date oil exploration. It appears to Collier that the DGMF is attempting aesthetic improvements at the expense of the new oil operators, an effort for which it plainly lacks authority.

The statement is made "one-to-one mitigation, where disturbed lands in other areas of the BOPNP would be reclaimed in lieu of reclamation in Bear Island, would be permitted." Collier is unclear how this stipulation would be applied after no background discussion is given on how it would be implemented. While the DGMF may be intending a compromise to allow for exploration in Bear Island, we do not understand how mitigation outside the Bear Island Unit would result in "no net loss of resources." On one hand throughout the DGMF/DEIS the DGMF has been careful to develop the concept of resource management units (e.g. Bear Island, Deep Lake, Core Dunes, etc.) it now appears to be allowing credit for mitigation measures outside the unit to be impacted. Collier does not believe this proposed stipulation is consistent

95. See responses 21 and 54.

with unit management concepts and the general need to provide integrity of resource management.

Important Resource Area Designation Subpart 16.355 --

Callier disagrees with several portions of this proposed stipulation to the extent that the net effect of this condition would be to severely limit the scope of geophysical (seismic) exploration planned or proposed by Callier directly or by permitted agents of the company. The identifying of specific vegetative communities within a matrix of important resource areas may allow a road and drilling pad to be carefully located within the broad boundaries of a important resource area. The stipulations appear to allow for drilling to occur in areas that have a mixture of vegetation as long as the actual location is not in the important resource area. For example, old growth plantlands probably could be explored using cross section avenues to gain access to and among stands of old growth pine. Of course this would be accomplished with careful consideration of the stipulation regarding the Red Cockaded woodpecker. However, with the proposed stipulations on geophysical activities in place, there would be no possibility for effectively prospecting with seismic methods anywhere within the area encompassed by the old growth plantlands.

The seismic method is required for exploration and field delineation to assist in planning exploration and production drilling. Since Callier does not agree with the low-level of activity scenarios presented in the DOMP/DEIR, Callier envisions significantly more instances where important resource areas would need to be traversed by seismic exploration lines in order to delineate fields for production planning or to develop exploration prospects.

The old-growth plantlands, for example, along the Sunnyside Trend northwest of the Raccoon Point Field must be crossed to fully evaluate the unexplored portions. The old growth plantlands are a good example of where small, low impact, tracked equipment could traverse between the trees with minimal impact. This is particularly true in light of the NPS policy regarding fire control burning throughout this area. In many areas of the old growth

96.

Geophysical operations would be subject to review and approval of a site-specific plan of operations, in accordance with the 36 CFR 9B regulations, applicable stipulations in the "Minerals Management Plan," and compliance with resource protection strategies in the final GMP/EIS. Geophysical survey stipulations are based upon sensitivity of resources and state-of-the-art techniques and equipment designed to reduce adverse impacts to such resources.

<p>platforms, the mobility has been sufficiently reduced by burning to allow seismic equipment of the type used by Shell Western in 1988, to traverse without much difficulty.</p> <p>These limitations on the ability to conduct seismic testing seems serious, as they will severely limit the exploration and development options available to the Collier entities owning the minerals. In the absence of seismic exploration, additional exploration drilling (often called "random drilling") will be required to gather geologic data. Random drilling will eventually lead to more-or-less the same geologic models of the subsurface for exploration purposes but it is more expensive and less precise than seismic methods, and it will certainly take longer.</p> <p>There are numerous "sub-zones" within the important resource areas where all conditions can support small tracked (and even large equipment in some areas) equipment similar to that used by Shell Western. The test of whether seismic operations could safely cross portions of important resource areas is one that should be based on modern techniques and equipment. The proposed stipulation states:</p> <p style="padding-left: 40px;">This stipulation will not apply to cases or other uses that would not significantly disturb surface resources, such as geophysical surveys conducted by foot or nonmotorized ground methods (emphasis added)</p>	<p>Therefore, it is clear that the DDMF has made the determination that motorized equipment is the activity that causes surface impacts. Collier does not agree. To the contrary, close examination of areas where motorized equipment has been used to conduct seismic testing in similar surface environment areas and where permit conditions at the time required procedures similar or identical to those required by DDMF proposed operational stipulations demonstrates insufficient disturbance of surface resources. Field examinations by consultants and environmental regulatory personnel of the State of Florida support this contention. We strongly request that plans of operation for geophysical (seismic) testing be viewed on a case-by-case basis as to the areas to be crossed, soil conditions and methods proposed.</p>
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97.

PROPOSED OPERATIONAL STIPULATIONS- GEOPHYSICAL

Operational Stipulations: Geophysical Operations, p. 856.(B) --

Collier does not agree that seasonal limitations are required or necessary to protect the DCMF based on previous experience. Instead, Collier suggests that following proposed stipulations:

- (B) Geophysical operations are to be limited or scheduled to avoid
 - major recreational and hunting periods be revised to include the language "to the extent practical as based on the area of proposed operations." And, on page 857, Collier suggests that the following proposed stipulations
 - periods of high precipitation and/or with standing surface water (the wet season normally May through December) should be revised to add the language "should be avoided to the extent practical."

98.

Also, the duration of "wet season" is stated here is not consistent with the definition of "dry season" as described on page 860 which states the duration of the dry season to be November through May. Collier suggests that the agreed upon working period for field operations be November through June with heavy green on seasonal variations, with the consideration for all other stipulations regarding operations in wet conditions, which serve to minimize surface impacts even during wet season operations.

99.

Operational Stipulations: Geophysical Operations, p. 857.(D) --

The term "extremely sensitive to environmental degradation" should be defined and discussed in light of other presumably sensitive areas in important resource areas. The industry spends considerable time and money in planning to meet DCMF requirements and it is imperative that all such terms (that can have different meanings to different people) be defined and used consistently.

97.

Seasonal limitations are necessary to avoid conflicts with other user groups, and to reduce impacts to vegetation and soils during the wet season. However, due to the fact that the general gun, small game, and spring turkey season coincide with the "dry season" (the acceptable period for geophysical operations), the National Park Service has amended the stipulation (now stipulation 7) in the final document to state, "Geophysical operations are to be located or scheduled to avoid . . . major recreational use and hunting periods to the extent practicable, based on the area of proposed operations and expected level of recreational use or hunting activity."

98.

This has been corrected in the final document. The wet season is normally May through October; the dry season, November through April.

99.

The stipulations have been revised. See the "Minerals Management Plan" (appendix C).

100

Operational Stipulations, Geophysical Operations, p. 867 (B) -

There is an inconsistent use of the terms motorized vehicles, tracked ATVs, and ORVs as they are applied to geophysical (scientific) operations. There are two types of motorized vehicles used for scientific exploration work: motorized support vehicles that operate along existing trails and drilling vehicles that operate cross-country. The support vehicles would comply with ORV standards and prescribed use restrictions similar to those in the BCCP. Small vehicles with drills which have a minimum ground pressure would traverse both existing trails where possible (where scientific lines have been planned to follow the existing and adjacent trail network) and off trails (cross-country) where continuity of the seismic line must be maintained to obtain required data. These small, tracked vehicles should operate under special permits and be excluded from ORV requirements as suggested in Part III - BMRs. When operating off trails the operations would be guided by proposed stipulations #15 whereas an NPS observer would oversee operations. Callier requests that this proposed stipulation be clarified to reflect this intent.

101

Operational Stipulations, Geophysical Operations, p. 867 (B) -

Callier does not agree that the Deep Lake and Long units should be off limits to motorized equipment. The small tracked vehicles used by Shell Western were tested in South Florida in 1987 and 1988 and in the BCCP in May 1988. Follow up studies and observations by regulatory personnel have shown that penetration is nearly 100% for track impressions within one year. For this reason, it is unreasonable to require the extensive and expensive logistics of a totally helicopter-supported and lifting operation when there is an long term disturbance beyond the next breeding season. This is particularly true when NPS alleges that helicopter noise adversely impacts (in some undocumented way) the Florida Panther (page 203).

100. The new number for this stipulation is 13. See response 99.

101. The National Park Service has closed the Deep Lake unit to all ORV use, including geophysical survey vehicles, in order to increase the protection of documented habitat for the endangered Florida panther. A "totally helicopter-supported and lifting operation" would not be required in the Deep Lake unit due to technological advances in hand-portable shot-hole drilling equipment. See the revised stipulations in the "Minerals Management Plan" (appendix C), stipulation 14.

102

Operational Stipulations, Geophysical Operations, p. 871, (20) --

Collier finds the provision for 'no cutting or trimming of cypress trees' to be totally unworkable in the conduct of geophysical surveys. Minor trimming of limbs and foliage is required to obtain line-of-sight for survey location purposes. The proposed requirement that 'no vegetation cutting or trimming is to occur in important resource areas' cannot be accepted for the same reason. These proposed stipulations will render large areas of the Summitland Tract, as well as many affected areas, inaccessible for geophysical (seismic) exploration. This is unreasonable since Shell Western operations demonstrated that a trimmed cypress tree begins sending out new growth within days after being trimmed. This proposed policy is also inconsistent with other proposed actions of the DOMP, specifically those regarding the controlled burning of underbrush as outlined in the proposed alternative in the DOMP/DEIR.

In this regard, the stated goal of the 'fire management' program of NPS under the proposed action spills out the strategy for 'manage' underbrush and small trees (page 65):

Small-scale prescribed burns for weed clearing, debris removal, and other operational needs would continue. Strict adherence to fire prescriptions would be maintained to avoid inadvertent resource damage, particularly involving fires within hammocks or other fire-sensitive vegetation types.

...

To achieve these prescribed fire goals, the average burned would be increased to as much as 50,000 acres, double the current program. The increase would depend on stated objectives, along with available budget and staffing for the most part prescribed burning would occur in suitable cypress swamps, marsh, and pinelands types.

The NPS is therefore stating that they intend to burn the underbrush in critical resource areas including old growth pinelands, marshes, and hammocks, to the amount of 50,000 acres per year. The brush burned and destroyed for fire management purposes in the same brush that is trimmed or cut for seismic survey purposes. Thinning for seismic activities is limited to removing 36 inches above ground, a path 36 inches in width, and an tree cutting. This amounts to overall thinning on less than two acres per mile of seismic line. (Shell's 1988

102. The cutting or trimming of cypress trees would not be permitted because of the species' extremely slow growth rate. See the revised stipulation 16 in the "Minerals Management Plan" (appendix C) and response 50.

<p>program would have impacted a total of less than 200 acres) compared to 81,000 acres of burning for NPS which Collier believes cannot be selective nor effectively controlled. This is a wholly arbitrary application of stated NPS policy on resource protection measures with regard to management of the forest understorey.</p>	<p>Operational Stipulations, Geophysical Operations, p. 858 (24) --</p> <p>Collier cannot agree with this proposed stipulation, as meaningful seismic operations and data collection cannot be conducted under this stipulation. Many areas that are prospective would be ruled off-limits. Follow-up studies of Shad Westcott's seismic activities in the Mulefoot Slough flow in the BCRFP Additional area in 1987, demonstrated that more than 95% of all shot holes cannot be relocated within two to three years. Reclamation for the BCRFP Mulefoot Slough seismic lines was nearly identical to reclamation stipulations proposed in paragraphs #103 and #97.</p>
<p>Operational Stipulations, Geophysical Operations, p. 858 (25) --</p> <p>Collier suggests that this proposed stipulation be amended to allow excess seismic (seismic materials) to be disposed in any other shot holes where sufficient backfill material is unavailable.</p>	<p>Operational Stipulations, Geophysical Operations, p. 858 (43) --</p> <p>Collier requests that the phrase "caused by geophysical operations" be inserted in this proposed stipulation. We have no objection to cleanup measures to level ruts and depressions which were caused directly by geophysical activities. This suggested change will clarify this intent.</p>
<p>Operational Stipulations, Geophysical Operations, p. 858 (44) --</p> <p>The requirement for a turbidity screen for reclamation operations is inconsistent with proposed stipulation #38 which allows a mixing zone of up to 20 feet around the operations. As long as turbidity conditions for operations do not exceed permitted limits (by FDES), it makes no difference whether the operation underway is drilling or reclamation. There is no</p>	

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103. See revised stipulation 20 in the "Minerals Management Plan" (appendix C).

104. The stipulation has been revised to state that excess cuttings may be used to backfill other shot holes in the immediate area, providing that soil pH values are comparable (within one pH unit). See revised stipulation 34.

105. This stipulation has been revised to include the phrase "resulting from approved geophysical operations;" see revised stipulation 37.

106. The requirement for use of a turbidity screen (stipulation 44) has been merged with stipulation 29 as a mitigation measure in the event turbidity standards were exceeded during any phase of an operation.

<p>reasons to differentiate between these activities since field data demonstrates that turbidity standards are not exceeded outside the mining zone in either operation.</p> <p>PROPOSED OPERATIONAL STIPULATIONS, DRILLING AND PRODUCTION</p>	<p>Operational Stipulations, Drilling and Production, p. 369 (I) --</p> <p>This proposed stipulation states:</p> <p>Existing pads and access roads areas to be used for operations in lieu of creating new surface disturbance to develop oil and gas facilities.</p> <p>Callier suggests the addition of the phrase 'to the extent economically feasible' be added to acknowledge the case-by-case process that is to be followed.</p>	<p>107. The stipulation has been revised to include the phrase "to the greatest extent possible."</p>
<p>Operational Stipulations, Drilling and Production, p. 369 (B) --</p> <p>Callier does not agree that general limitations should be required for construction. The Florida Department of Environmental Regulation requirement for turbidity controls with allowable mining zones will allow construction activities to occur throughout all hydroperiods without degrading water quality. However, at a minimum, the definition of the duration of 'dry season' stated here should be consistent with the definition of 'wet season' as described on page 287.</p>	<p>109. The stipulation has been revised to include the phrase "official representatives of the mineral owner."</p>	
<p>Operational Stipulations, Drilling and Production, p. 369 (C) --</p> <p>The proposed stipulation should allow "official representatives of the mineral owner" to be approved for use of access routes to the site.</p>	<p>110. The stipulation has been revised to state that pad design and siting must conform to vegetation community features, and that interference with natural surface water flow must be minimized to the greatest extent possible.</p>	
<p>Operational Stipulations, Drilling and Production, p. 369 (D) --</p> <p>The design and siting criteria of a pad should minimize interference with natural water flow to the extent possible. Minor but insignificant interference with sheet flow may occur that has no measurable effects on water quality. This situation should be recognized in the proposed stipulation. Certainly, no pad would be sited in any area of significant flows based on historical application of Big Cypress Swamp Advisory Commission siting criteria.</p>		

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Operational Stipulations, Drilling and Production, p. 890 (117). --
This proposed stipulation is unnecessary because of more detailed rule provisions in the state oil and gas rules and it is not required as an operational requirement of DQMP.

111. The stipulation has been revised to more completely describe acceptable casing methods for protecting near-surface waters and groundwaters, as currently required by state oil and gas rules. The National Park Service has primary responsibility for the management of oil and gas activity in the preserve.

112

Operational Stipulations, Drilling and Production, p. 890 (118). --
Background water sampling prior to pad construction should be restricted to surface water only. The installation of monitoring wells at drilling sites should be required only if analysis of site specific conditions shows that collection of valid groundwater data can be accomplished. Collier and Bhal Western field data indicates a wide variability in surface conditions in many areas east-surface rock and soil conditions will not allow sampling by wells. Therefore, Collier would anticipate that near surface conditions in many areas of the DQMP are not conducive to meaningful groundwater quality monitoring. The need for groundwater monitoring should be a site specific decision and required only when conditions warrant and allow it.

112. The stipulation has been revised to consider water quality monitoring needs on a site-by-site basis. The monitoring of surface water and shallow groundwater is a responsible management practice during drilling and production operations, considering that water quality can be adversely affected during such operations. The use of the best available technology does not preclude accidental discharges of environmental contaminants.

113

The list of parameters for water quality monitoring suggested by NPS are overly extensive and not consistent with the expected indicators of change that would indicate possible impacts by a drilling operations. The oil industry should be required to sample only for possible contaminants that might be introduced by their operations.

113. The list of parameters represents reasonable indicators of change with respect to typical oil and gas drilling operations. The stipulation has been revised to state that the list of parameters may be subject to revision depending on the type of operation proposed.

114

The requirement for water wells to be placed up gradient and sampled for six months only after plan of operations approval would delay the start of operations from eight to sixteen months depending on seasonal and hydroperiod considerations and the date of permit issuance. Collier finds this adverse result of the proposed stipulation to be unreasonable and unachievable. Without a sound scientific reason for this sampling requirement, we request that this arbitrary requirement for advanced sampling be modified to require site specific data to be obtained from either surface or groundwater (depending on site conditions) immediately before construction of the location begins.

114. See response 112.

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115

The statement:

If during the sampling period anomalies appeared in the indicator parameters, additional testing for the following parameters would be required on a frequency to be determined as conditions warrant:

should be reworded as follows:

If during the sampling period anomalies appear in the indicator parameters that are reasonably be attributed to the oil and gas operations underway in the vicinity, additional testing for one or more of the following parameters would be required on a frequency to be determined as conditions warrant.

116

Further, the statement that follows provides:

If surface and subsurface water contamination was observed, operations would cease, monitoring would continue until restoration was completed, and cleanup would be initiated and should be reworded as follows:

If surface or subsurface water contamination is observed, this is directly attributable to oil and gas operations, operations would cease or be immediately modified to verify procedures causing the source of contamination, cleanup and restoration would be started immediately and monitoring would continue until restoration was completed.

117

Further in stipulation #15, it is unclear whether the "anomalies appearing in the indicator parameters" are to be considered "surface or subsurface water contamination" that would trigger cessation of operations.

118

Other recommendations that the parameters to be sampled by any compliance monitoring activity should be matched with the list of possible contaminants associated with permitted operations. This is to avoid the situation where sampling is conducted for the sake of sampling at the expense of the operator.

If the stated goal is to make this monitoring "most useful to management and for monitoring long-term trends," then additional attention should be given to developing a regional database on background conditions rather than trying to integrate site-specific data points taken

115. The stipulation has been revised accordingly.

116. The stipulation has been revised to reflect these concerns.

117. The stipulation has been revised to state that anomalies appearing in any surface water or subsurface water indicator parameter that can be reasonably attributed to the oil and gas operations in the vicinity would result in the immediate cessation of operations.

118. See response 113.

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<p>an an intermittent basis and the relatively short duration. Clearly, the latter is a less than production or cost-effective exercise.</p>	<p>Operational Stipulations, Drilling and Production, p. 393 (20) -- This proposed stipulation is not needed because Florida Department of Natural Resources and U.S. Environmental Protection Agency regulations would govern subsurface (or) disposal in Class II injection wells. Additionally, subsurface drilling and disposal systems are required on all operations by state rules.</p>	<p>119. The stipulation has been revised.</p>
<p>Operational Stipulations, Drilling and Production, p. 393 (20) -- The proposed stipulation: A site capable of containing at least 1.5 times the volume of crude stored on the site must be constructed around each well, should be reworded as follows to clearly state the obvious intent: A containment site capable of containing 1.5 times the tank volume shall be constructed around each tank or tank storage facility. Without this change, the perimeter berm around the production location would satisfy the proposed stipulation requirement, whereas the obvious intent is to provide spill containment around the tanks to minimize the water-spread risk of contamination.</p>	<p>120. The stipulation has been revised accordingly.</p>	
<p>Operational Stipulations, Drilling and Production, p. 393 (22) -- This proposed stipulation is unnecessary because more of specific and more detailed provisions in the state oil and gas rules.</p>	<p>121. The stipulation is retained in the final document. The National Park Service has primary responsibility for managing oil and gas activity in the preserve.</p>	
<p>Operational Stipulations, Drilling and Production, p. 393 (22) -- This proposed stipulation is unnecessary because of specific and more detailed provisions in the state oil and gas rules.</p>	<p>122. See response 121.</p>	
<p>Operational Stipulations, Drilling and Production, p. 393 (24) -- This proposed stipulation is unnecessary because of specific and more detailed provisions in the state oil and gas rules.</p>	<p>123. See response 121.</p>	

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Operational Stipulations, Drilling and Production, p. 363 (30) --
 This proposed stipulation is unnecessary because of specific and more detailed provisions in the lease oil and gas rules.

124. See response 121.

125

Operational Stipulations, Drilling and Production, p. 363 (26) --
 The proposed stipulation:
 Transportation of oil by tanker truck is to be limited to 600 barrels for the purpose of production testing. All other transport of oil is limited to a pipeline.
 should be reworded as follows:
 Transportation of crude oil by tanker truck is to be limited to 35,000 barrels for the purpose of production testing only. All other transport of crude oil is limited to field gathering lines or pipelines.
 In the absence of a pipeline infrastructure, test oil is trucked from the well to the nearest shipping point. Wells that are set up in a test configuration can produce 500 to 1,500 barrels of oil per day. The proposed stipulation restricts the truck shipment to a total of 600 barrels or less than one day of test production, which is clearly an overly restrictive provision.
 Production testing and reserve evaluation will require less to fifteen days of well production. The 600 barrel limit is unacceptable from Collier's and industry's perspective.

125. The stipulation has been retained to protect preserve resources from spills, based on the high risks associated with trucking petroleum products.

126. The stipulation has been revised for clarification.

126

Operational Stipulations, Drilling and Production, p. 363 (27) --
 The proposed stipulation:
 Flowlines are to be located within the access road corridors and are to be bermed.
 should be reworded as follows:
 Flowlines and field gathering lines are to be located on the surface within the access road corridors; berms are to be used to prevent lateral movement of crude oil in the event of a line failure.

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127

Operational Stipulations: Drilling and Production, p. 392 (20) --
 The proposed stipulation:
 Pipelines at ORV windings must be buried.
 should be reworded as follows:
 Pipelines and field gathering lines must be buried at ORV crossings.

127. The stipulation has been revised for clarification.

128

Operational Stipulations: Drilling and Production, p. 392 (60) --
 The proposed stipulation:
 Buried flow lines are to be protected against external corrosion by plastic coatings and cathodic protection devices. Lines are to be periodically dug up at selected points and examined by X-ray or inspected internally.
 should be reworded as follows:
 Buried flowlines, field gathering lines and pipelines are to be protected against external and internal corrosion by appropriate protective surface coatings, cathodic protection devices and corrosion inhibitors. All flowlines, field gathering lines and pipelines are to be examined periodically at selected points using accepted pipeline inspection procedures; appropriate repair or replacement should be scheduled as soon as possible after testing to maintain system integrity.

128. The stipulation has been revised to reflect the suggested changes.

129. The stipulation has been revised to reflect the suggested changes.

130. The stipulation has been revised to reflect the suggested changes.

129

Operational Stipulations: Drilling and Production, p. 392 (22) --
 Insert the words "field gathering lines" after the word "flowlines."

130

Operational Stipulations: Drilling and Production, p. 393 (54) --
 The proposed stipulation:
 Oil spill cleanup equipment (pumps, skimmers, and absorbents) and personnel trained in emergency procedures including all spill containment and cleanup must be on hand and available for immediate mobilization.
 should be reworded as follows:
 Oil spill cleanup equipment (pumps, skimmers, and absorbents) and personnel trained in emergency procedures including all spill containment and cleanup must be on hand and available for immediate mobilization.

VIII. CONCLUSIONS

131	<p>The management philosophies and practices outlined in the DGMF as the National Park Service's proposed action hold the real prospect of preventing soils from becoming substantial portions of the mineral assets for the purpose of evaluating, exploring and recovering oil and gas.</p>	131.	The National Park Service disagrees with this conclusion. See responses 3, 4, 5, 20, 21, 22, 24, and 25.
132	<p>Denial of access to the mineral assets by the construction of artificial limits and numerous exclosures will have the effect of fifth amendment "taking" of property rights the moment such management philosophies are made final.</p>	132.	The National Park Service disagrees with this assessment (see appendix H).
133	<p>The Area of Influence created by oil and gas operations and quantified in the DGMF as 0.5 miles on all sides of roads, pads and other seismic limit is based on assumptions totally unsupported by any current technical data or field observations related to the BCONP.</p>	133.	See responses 4, 5, 6, and 7.
134	<p>Current impacts associated with oil and gas production activities in the BCONP are limited to essentially the "footprint" of disturbances, i.e., immediate roads and pads.</p>	134.	See responses 4, 5, 6, and 7.
135	<p>Seismic operations utilizing current technology (i.e., Shell Western's 1988 operations) and permitted under modern regulations and stipulations have had no meaningful or residual impacts on the BCONP.</p>	135.	The Shell Western seismic operation in 1988 used current technology, but only for a 4.5-mile segment located solely in the Deep Lake unit. Applying the 36 CFR 9B regulations, the "Minerals Management Plan" stipulations, and the management strategies defined in the final GMP/EIS would ensure that resource impacts were kept to a minimum.
136	<p>Law Enforcement's line's 1989 evaluation of oil and gas impacts to the environment of the BCONP corroborates the earlier findings of Dunbar in 1984, the Florida Department of Natural Resources' recent January, 1989 draft policy statement on the effects of oil and gas development in the BCONP and views long held by a number of the Big Cypress Swamp Advisory Committee members that the effects of oil and gas development have been minimal.</p>	136.	Resource impacts can and do occur from oil and gas exploration and development. Case-by-case reviews of plans of operations under the 36 CFR 9B regulations, as well as taking mitigation measures outlined in the "Minerals Management Plan" and following strategies contained in the GMP, are designed to ensure minimal impacts to park resources and values.
137	<p>The DGMF portrayal of possible oil and gas impacts are exaggerated unnecessarily obscuring to the unlearned reader and unfortunately never made relevant to the BCONP.</p>	137.	The description of actual and potential oil and gas impacts, particularly as revised in the final GMP/EIS, are based on the best technical information available.
138	<p>The stipulations contained in the Minerals Management Plan of the DGMF as applied to seismic and drilling and production operations appear to be devoid of incremental benefits and technical feasibility and must certainly more repetitive than existing stipulations.</p>	138.	All stipulations as revised in the final "Minerals Management Plan" reflect industry capabilities using the best available technology and methods to minimize adverse impacts to the resources and values of Big Cypress National Preserve.
139	<p>Finally, NPP's own studies and publication support Collier's contention that oil and gas development impacts are already effectively regulated ... to date no incremental long-term effects have been identified. ... oil and gas operations have only minimal effects on the flow of surface water monitoring by the Big Cypress Swamp Advisory Committee and the recent National Park Service regulations are expected to minimize</p>	139.	The quoted NPS statements were made 11 years ago and were based on the level of oil and gas development and information available at that time. Much has been learned by the National Park Service over the last 10 years in terms of oil and gas operational methods, typical associated impacts, impact mitigation techniques, and resource sensitivity to disturbance. The Park Service believes that the final GMP/EIS and "Minerals Management Plan,"

in concert with the 36 CFR 9B regulations, would afford the proper level of protection for the preserve's resources and values.

<p>environmental disturbance from oil and gas related developments such as the 11-mile road to the Reservoir Point field -- these controls are considered adequate to prevent oil and gas operations from jeopardizing the primary purposes of the preserve -- (National Park Service, "Wilderness Study", August, 1978, Page 11).</p>
<p>The DOMEF's proposed action fails to properly implement the Congressional mandate in the RCNP's enabling legislation to regulate the exploration for and the extraction of oil and gas.</p>
<p>The DEIS is not adequate to satisfy the procedural requirements of NEPA for site specific decision making.</p>

Collier supports the status quo alternative as the only rational regulatory regime for best judging, on a case by case basis, the effects of proposed oil and gas operations on the RCNP.

140.

The regulation of oil and gas exploration and extraction in the preserve has been and will continue to be governed by 36 CFR 9B.

141.

The final GMP/EIS is programmatic and does not satisfy the procedural requirements of NEPA for site-specific proposed plans of operations. All proposed plans of operations for oil and gas exploration and development remain subject to the 36 CFR 9B regulatory approval standards, based on site-specific environmental documentation in accordance with NEPA.

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PRODUCTION DEPARTMENT
OFFSHORE DIVISION
REGULATORY AFFAIRS
KENNEDY BULLMAN
MANAGER

March 1, 1990

National Park Service
Draft Management Plan
Big Cypress Preserve

Mr. Bob Baker, Regional Director
National Park Service
Southeast Regional Office
75 Spring Street, SE
Atlanta, Georgia 30303

Dear Mr. Baker:

Exxon Company, U.S.A. (Exxon), a domestic operating division of Exxon Corporation, appreciates the opportunity to submit comments on the National Park Service Draft Environmental Impact Statement/General Management Plan/Minerals Management Plan for the Big Cypress National Preserve. Exxon is a fully integrated company operating in all phases of the petroleum and natural gas industry, is a major producer of oil and gas in the State of Florida and in the Big Cypress Preserve.

Exxon wishes to commend the National Park Service on its development of a comprehensive and concise proposed action plan and three alternatives for managing the Big Cypress Preserve resources for the next 10 to 15 years. In addition to minerals, the plan deals with visitor use, hunting, off-road vehicle use, hiking, camping, fire management, wildlife management, cultural resource management, hydrology, etc. We understand that the objective of the proposed action plan with respect to minerals management is to allow access for geophysical exploration, exploratory drilling and production while ensuring:

- Protection of important resources areas
- Protection of air and water quality
- Mitigation of surface disturbance
- Restoration of abandoned sites
- No conflicts with visitors
- Visitor safety

In an attempt to balance these diverse interests, the proposed action plan contains restrictions that would likely retard oil development in the preserve. As you are aware, the domestic production of crude oil is declining, and foreign imports have recently exceeded one half of our nation's consumption. Exxon's past activities in the preserve have shown that oil production can be accomplished with only minimal temporary impacts to the preserve. We recommend that plans or regulations for the preserve allow for the maximum environmentally sound development of its minerals while taking the necessary reasonable precautions to protect other natural resources in the preserve. Following are specific comments and recommendations on the proposed action plan:

Mr. Bob Baker, Regional Director

Page 3

Comment:
 No more than 10 percent of the surface area of the preserve can be utilized for oil and gas activities at any time. This rule is unacceptable. The area of influence (AOI) of the National Park Service. The area of influence (AOI) is considered to extend 0.5 miles from each road, pad, pipeline, geophysical line, etc. Based on National Park Service estimates, 67 percent of the preserve is currently being influenced. The additional influence proposed by the plan (2.3 percent) would allow for the development of two additional oil production fields, slightly smaller than Raccoon Point or a 23.5 mile geophysical operation. Reclamation of existing pads, roads, geophysical operations, etc. would allow for additional expansion. The amount of expansion allowed by this limitation is small and may significantly retard future development of oil production in the preserve that is important to the national interest. Other limitations established by the plan are sufficient to protect the preserve's important resources without this 10% additional limitation.

Recommendation:
 Delete the plan limitations on the amount of oil and gas activity that can be done in the preserve at any one time. If this is unacceptable, express the amount of oil and gas activity in the preserve only in terms of the surface area physically impacted by the activities (i.e. delete the inclusion of a 0.5 mile boundary around each facility). The significant impacts of oil and gas activities diminish very rapidly beyond the physical boundaries of most oil and gas production facilities. Inclusion of a 0.5 mile AOI around each pipeline, road, etc. will mislead the public into believing the oil and gas impacts in the preserve are much greater than they actually are.

Comment:
 If an operator or mineral owner is denied a permit because the proposed activity is determined to be detrimental to the purposes of the preserve, the National Park Service would petition Congress for the funds to acquire the mineral estate. If funds are not provided, the permit would be granted. This process of petitioning Congress for funds could be time consuming.

Recommendation:
 Modify the plan to indicate how mineral owners would be compensated for losses sustained while waiting for a decision from Congress on whether to purchase the mineral estate. Provisions should be made to ensure the purchase price reflects the fair market value of the mineral lease, notwithstanding the development restrictions.

3. See responses 4, 5, 6, 9, and 24 to the Collier Resources Company.
4. The proposed action has been revised in regard to the acquisition of mineral rights. If a plan of operations was not approved and mineral rights must be acquired, mineral owners would be compensated at fair market value, as required by law.

COMMENTS

RESPONSES

Mr. Bob Baker, Regional Director

Page 4

We hope these comments are helpful and that they will be given careful consideration in your deliberations.

Contact Fred Barker (504) 561-4208 if you need additional information on these comments.

Very truly yours,

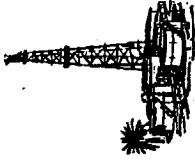


(for) John D. Rullman

FLB:mar
(PLANS)

c - Mr. Fred Fagergren, Superintendent,
Big Cypress National Preserve
Star Route Box 110
Ochopee, Florida 33943

Florida Independent Petroleum Producers Association, Inc.



Reply to:

February 26, 1980

Bob Baker, Regional Director
National Park Service
Southeast Regional Office
75 Spring Street
Atlanta GA 30303

RE: Comments on the Draft Minerals Management Plan

Dear Mr. Baker:

The Florida Independent Petroleum Producers Association has reviewed the above referenced plan and have discussed our comments with other interested parties.

FLPPA urges the status quo alternative be selected. Your zoning approach to minerals management will not work. The DCMR/DMS would impose nearly total restriction on access for seismic testing and drilling that our members could not compete in the marketplace and work in Florida. Your restrictions, on attempts to create a situation where no cost-effective geophysical exploration methods could be used.

FLPPA objects to any percentage limitation on exploration and development activities in the Big Cypress National Preserve. If implemented, this limitation would severely limit the rights of the private mineral owners and their lessees, to explore for oil and gas. The methodology used in determining areas of impact is imprecise and is extremely subjective.

We conclude after careful review that potential impacts are consistently overstated in favor of environmental protection positions that are not justified. The NPS does not present an accurate picture of actual impacts documented for existing oil exploration and production operations.

FLPPA objects to the concept of limiting oil and gas operations to existing roads and pads in the Bear Island Unit. This limitation on access would seriously preclude any further exploration of the oil and gas resources beneath these areas.

The provision for "no cutting or trimming of cypress trees" is unacceptable for the conducting of geophysical surveys. Also, cutting is required to conduct any seismic surveys. Trees and brush grow rapidly and these are studies that show that cypress trees grow back quickly. The Native Americans have been harvesting cypress poles from the same stands for years. Trees and brush grow rapidly in the lush climate of South Florida.

The National Park Service burns tens of thousands of acres all over the Preserve in all of the important resource areas and now wants to restrict

FLPPA - P.O.Box 10023 • Tallahassee, FL 32302

1. See response 29 to the Collier Resources Company.
2. See responses 3, 4, 5, 6, 1, 16, and 24 to the Collier Resources Company.
3. See response 20 to the Collier Resources Company.
4. See response 102 to the Collier Resources Company.
5. See response 50 to the Collier Resources Company.

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<p>even use of a few acres for oil exploration. This does not make good sense if your goal is environmental management.</p>
<p>Many of the proposed stipulations in the plan are redundant and sometimes inconsistent with requirements of other regulatory agencies who have responsibility for drilling or disposal wells. The park service staff should stay out of oil well drilling regulation and let the proper state or federal agency manage it.</p>
<p>Transportation of test oil by tanker truck cannot be limited to 500 barrels for production testing. If a high-flow producing well is discovered you would not be able to test it. The volume for test oil should be at least 15,000 barrels or more to allow for all the reservoir tests that may be needed. A time limit for producing test oil would be a better approach, say 30 days.</p>
<p>Seasonal limitations are not required, nor necessary, to protect the property stated in our comment. Previous experience shows that certain sensitive areas vehicles can move around the property at all times of the year with proper permit conditions.</p>

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6. The stipulations in the "Minerals Management Plan" have been revised to reduce redundancy. The National Park Service is responsible for managing nonfederal oil and gas operations in the preserve under PL 93-440, PL 100-301, 16 USC 1 (et seq.), and other authorities as cited in 36 CFR 9B.

7. See response 125 to the Collier Resources Company.

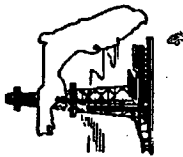
8. See responses 97 and 108 to the Collier Resources Company.

We request notices be sent to the above address since we are very interested in the outcome of this process.

Sincerely,



Thomas A. Herbert
Secretary



**Peninsular
Oil Corporation**

Mike Cheeseman
President

16311 Perdido Key Drive
Suite B
Pensacola, Florida 32507
Telephone (904) 492-1499

February 23, 1990

Mr. Bob Baker, Regional Director
National Park Service
Southeast Regional Office
75 Spring Street
Atlanta, Georgia 30303

Re: Minerals Management Plan
Big Cypress National Preserve
Florida

Dear Mr. Baker:

As an oil and gas operator and lessee of over 7,000 acres, I am very concerned over the Minerals Management Plan that has been drafted by the U.S. National Park Service.

I have been trying since April 1988 to get a permit to drill a well. After spending much time and money I was able to get the U.S. Park Service to allow me to survey a well location and have the Big Cypress Advisory Committee inspect same.

The Advisory Committee okayed said location, this now paves the way for a drilling permit from the State of Florida.

We have not applied for the Florida permit since proper permits from the U.S. Park Service are needed first.

The area in question is located north of Alligator Alley (shown on page 61 of the Management Plan as a regulated drillable area). There are no objections to reasonable regulations, but the Park Service's approach suggests that drilling and production will be limited to small zones. This along with other proposed restrictions will hurt the small operator such as this company.

Peninsular Oil would be happy if a permit was granted in the near future, but even with said permit a small company will still have many economic nightmares if some of the proposed restrictions are enacted.

The area in question is not a pristine forest, but an area that has been chewed up many times by off-road vehicles. There has also been oil test wells drilled - most roads were removed.

Peninsular's leases are from mineral rights that retained said minerals at such time the land was sold to the government. It would appear that this transaction should allow said mineral owners and their lessees to explore for these retained minerals.

1. The "Environmental Consequences, Impacts on Mineral Interests" section recognizes that the proposed action would likely result in increased costs to all oil and gas operators in the preserve.

2. See response 3 to the Collier Resources Company.

COMMENTS

RESPONSES

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limiting operations to existing roads and not allowing the cutting of needed vegetation will require many economic problems such as drilling expensive directional holes.

I know that responsible oil operators are concerned, as we all should be about our environment, and hopefully there can be reasonable understanding and cooperation between citizens and government.

Your consideration to our concerns will be greatly appreciated.

Sincerely,

Peninsular Oil Corporation

Mike Christensen
President

3. See responses 17 and 18 to the Collier Resources Company.

- 1. See responses 3, 4, 5, 6, 12, 16, and 24 to the Collier Resources Company.



PRAIRIE PRODUCING COMPANY
A PLACER DOME COMPANY

L. BRUCE FORNEY
President
Chairman of the Board

February 23, 1990

Mr. Bob Baker
Regional Director
National Park Service
75 Spring Street
Atlanta, GA 30303

Re: Comments on the Draft General Management Plan and Mineral Plan

Dear Mr. Baker:

We have reviewed the above referenced plan and have discussed our comments with other interested parties who own minerals and are in the exploration business. Oil operations are consistent with the goal of the legislation that is presented in Appendix A; you cannot zone our rights away or impose arbitrary limits that have the same effect.

We urge the status quo alternative that treats every application on a separate basis. We object to the creation of large off-limits areas by calling them important resource areas. Your zoning approach to minerals management will not work. The DGM/DEIS would impose nearly total restriction on access for seismic testing and drilling. These restrictions, for example, create a situation where no cost-effective geophysical exploration methods could be used. Exploration would be restricted to small windows in the vegetation communities that would make road construction and drilling difficult, expensive and, in most cases, impossible. There would be many places on our minerals that would be off limits.

We specifically object to the concept of any percentage limitation on exploration and development activities in the Big Cypress National Preserve. If implemented, this stipulation would severely limit the rights of the private mineral owners of their leases to explore for oil and gas. The methodology used to determine areas of impact is impractic and is extremely subjective.

In general, we conclude that this plan does not present an accurate picture of actual impacts documented for existing oil exploration and production operations. Potential impacts are consistently overstated in favor of environmental protection. The rights of the mineral owners acknowledged by Congress when the Preserve was created must be honored.

COMMENTS

RESPONSES

Mr. Bob Baker
February 23, 1990
Page two

- 2 We strongly object to the concept of limiting oil and gas operations to existing roads and pads in the Bear Island Unit or any unit for that matter. This limitation on access would seriously preclude any further exploration of the oil and gas resources beneath these areas.
- 3 We do not agree that seasonal limitations are required or necessary to protect the preserve based on previous experience. Except for certain sensitive areas vehicles can move around the preserve at all times of the year. Construction activities should be allowed at any time of the year with proper permit conditions.
- 4 The provision for "no cutting or trimming of cypress trees" is unacceptable for the conducting of geophysical surveys. Minor cutting is required to conduct any seismic surveys. Trees and brush grow rapidly and there are studies that show that cypress grow back quickly. The Indians have been harvesting cypress poles from the same stumps for years. Trees and brush grow back quickly in Florida's wet climate.
- 5 The proposed requirement "no vegetation cutting or trimming in important resource areas" cannot be accepted either for the same reasons. Wells cannot be located in many areas without cutting or trimming of trees for roads and pads. The National Park Service wants to burn 50,000 acres all over the preserve and wants to restrict the use of a few acres for oil exploration. This is not fair or equitable based on the rights given the mineral owners by Congress.
- 6 Many of the proposed stipulations in the plan are redundant and sometimes inconsistent with requirements of other regulatory agencies who have responsibility for drilling or disposal wells. The park service staff should stay out of oil well drilling regulation and let the proper state or federal agency manage it.
- 7 Transportation of test oil by tanker truck cannot be limited to 500 barrels for production testing. If a large producing well is discovered we would be unable to test it. We would like 20,000 barrels or more to allow for all the reservoir tests that may be needed.
- 8 We are directly affected by these proposed actions since we own minerals in south Florida. These proposals represent confiscation of rights without due process or compensation and will be vigorously opposed. We request that all materials, reports, proposals, recommendations or hearing notices be sent to the above address since we are very interested in the outcome of this process.

Very truly yours,

L Bruce Forney
L. Bruce Forney
President

LBF/fm

- 2. See responses 20 and 29 to the Collier Resources Company.
- 3. See responses 97 and 108 to the Collier Resources Company.
- 4. See response 102 to the Collier Resources Company.
- 5. See response 50 to the Collier Resources Company.
- 6. See response 6 to the Florida Independent Petroleum Producers Association, Inc.
- 7. See response 125 to the Collier Resources Company.
- 8. See responses 26 and 39 to the Collier Resources Company.



Shell Western E&P Inc.
A subsidiary of Shell Oil Company

P.O. Box 4282
Houston, TX 77210-4282

February 27, 1990

Mr. Bob Baker
Director, Southeast Regional Office
National Park Service
75 Spring Street, SW
Atlanta, GA 30303

Dear Mr. Baker:

SUBJECT: DRAFT GENERAL MANAGEMENT PLAN -
BIG CYPRESS NATIONAL PRESERVE

Shell Western E&P Inc. (SWEPI), an affiliate of Shell Oil Company, has reviewed the draft General Management Plan/Environmental Impact Statement for the Big Cypress National Preserve, Florida. The following comments and suggested changes primarily are referenced to Appendices B & C: Area of Influence for Oil & Gas Activities and the Mineral Management Plan, pages 324-359. SWEPI's comments are based on its specific experiences in conducting seismic operations in the Big Cypress National Preserve from March through May, 1988.

We appreciate your consideration of these comments as you develop the final version of the General Management Plan.

Yours very truly,

E. M. Larberg
Exploration Manager
Gulf Coast Division

MOB:CHP

Attachment

SNEPI COMMENTS ON
DRAFT GENERAL MANAGEMENT PLAN
BIG CYPRESS NATIONAL PRESERVE

1

TEN PERCENT AREA OF INFLUENCE LIMITATION, pages 339-340, 355.

This stipulation, as it applies to geophysical seismic surveys, would not allow for efficient and economical collection and evaluation of seismic data.

The application of this stipulation to geophysical surveys, as discussed in Appendix B, page 340, would require limiting a survey to a maximum of 25.6 miles of seismic data at one time. The necessary mode of conducting a seismic survey is a spiral progression of surveying, drilling, recording, and cleanup crews along a seismic line(s). Limiting the number of miles, as discussed, creates unnecessary delays for each of the crews that progress along the lines during a geophysical survey without any proven environmental benefit. These delays would result in the need to mobilize crews to other exploration areas in an attempt to maintain an efficient and cost effective operation. Completing a seismic/geological evaluation of the Big Cypress National Preserve area under this stipulation would require excessive time (years) and expense.

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Additionally, SNEPI does not agree that an area of 0.5 miles on either side of a seismic line is impacted if techniques similar to those used by SNEPI in 1988 are implemented. The environmental impacts of that geophysical survey have been reviewed by state agencies and the National Park Service, and it has been determined "the impact to the environment was minimal" (see attached Department of Natural Resources (DNR) report and SNEPI documentation).

3

IMPORTANT RESOURCE AREA PROTECTION STIPULATION, page 355.

The surface accuracy.

SNEPI disagrees with this stipulation since geophysical surveys have been and can continue to be conducted in an environmentally sensitive manner in a majority of the important resource areas. For instance, in our seismic survey, geophysical activities were conducted in cypress stands, mixed hardwood swamps, sloughs, cypress domes, hardwood hammocks, old growth pine lands and some of the marsh areas. Also, foot traffic and geophone layout were allowed in areas of known archaeological sites.

When SNEPI conducted seismic operations in 1988, the National Park Service, the Florida Department of Environmental Regulation and the Florida Department of Natural Resources developed a set of comprehensive guidelines addressing potential impacts on soil, vegetation, water, etc. These guidelines determined the equipment and techniques to be used in a specific area. This set of guidelines allowed for acquisition of high quality seismic data in important resource areas and resulted in minimal and temporary environmental impact to these areas. SNEPI recommends

1. The "Environmental Consequences, Impacts on Mineral Interests" section recognizes that the proposed action would likely result in increased costs and time delays to oil and gas operators in the preserve. The stipulations would provide for seismic exploration using the best available technology to minimize environmental impacts to preserve resources.

2. Because of the stipulations on operations required by the National Park Service, the post-operation environmental effects on soils, vegetation, surface water flows, and cultural resources from the 1988 Shell Western geophysical survey were minimal. However, during the operation disturbances to wildlife were observed and documented. Other scientific literature further supports the concern for disturbance to wildlife from geophysical operations, especially because of helicopter noise. For these reasons the proposed area of influence has been revised from a standard 0.5 mile to a range of 0 to 0.75 mile, depending on the stage of operations, type of equipment, and reclamation.

3. Geophysical operations stipulations relating to important resource areas have been revised.

COMMENTS

RESPONSES

- 4. The stipulation has been revised; see stipulation 11.
- 5. The stipulation has been revised; see stipulation 13.
- 6. The stipulation has been revised; see stipulation 14.
- 7. See response 3 above.

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<p>that's initial environmental impact guidelines be used when considering geophysical operations in important resource areas.</p> <p>OPERATIONAL STIPULATIONS, GEOPHYSICAL OPERATIONS, page 357 (14): Areas considered to be extremely sensitive to environmental degradation are to be accessed only by foot.</p> <p>Clarification is requested in determining what is "considered to be extremely sensitive to environmental degradation". Does this apply to areas other than those identified as important resource areas?</p> <p>SNEP recommends that in areas where surface conditions will not allow geophysical surveys to be conducted within predetermined guidelines using standard equipment and techniques, a less invasive technique should be used to meet such guidelines.</p>	<p>OPERATIONAL STIPULATIONS, GEOPHYSICAL OPERATIONS, page 357 (16): The use of motorized vehicles must comply with the standards established for use by preserve visitors.</p> <p>As proposed in this draft General Management Plan, the use of tracked vehicles by preserve visitors will be outlawed. The low impact tracked vehicles used by SNEP in 1988 to transport shot hole drilling equipment generated no long term environmental impacts. Thus, this type of equipment should be allowed for future salibatic operations, regulated by special vehicle permit.</p> <p>Use of any and all vehicles for geophysical operations should be operated under the following recommended stipulation: Existing trails should be used when possible. When vehicles are used off of existing trails, impacts will be minimized and will conform to predetermined impact guidelines.</p>
<p>OPERATIONAL STIPULATIONS, GEOPHYSICAL OPERATIONS, page 357 (17): Foot access only in LOOP and Deep Lake Unit, important resource areas or other undisturbed areas.</p> <p>Please reference SNEP's comments concerning the Important Resource Area Stipulation. Light weight shot hole drilling equipment can be transported by small tracked vehicles similar to vehicles used by SNEP in 1988. This transport technique resulted in minimal impact to the environment. Requiring the use of hand portable drills in areas where minimal impacts would be generated from specialized transport vehicles is an unnecessary precaution that is extremely costly for geophysical operators.</p>	<p>OPERATIONAL STIPULATIONS, GEOPHYSICAL OPERATIONS, page 357 (20): No vegetation cutting or trimming is to occur in important resource areas.</p> <p>Line-of-sight vegetation trimming is necessary to survey select line locations. This minimal vegetative trimming was carried out in important resource areas during SNEP's geophysical operations in 1988. The vegetation grew back and when the seismic line was evaluated one year</p>

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<p>later, it was impossible to tell where the triggering had occurred. Since this animal's triggering is necessary to conduct surveying of seismic lines and since it has been proven that it can be conducted without damaging vegetation (SNEPI operations 1988), triggering should be allowed in important resource areas. Not allowing this activity in important resource areas would limit the ability to acquire usable seismic data.</p>	<p>OPERATIONAL STIPULATIONS: GEOPHYSICAL OPERATIONS, page 358 (24): "No shot holes are to be drilled in important resource areas." Stipulation 24 contradicts stipulation 17 (page 357). SNEPI's operations in 1988 demonstrated that shot holes can be drilled in important resource areas using drills transported by small tracked vehicles. These operations resulted in minimal impact to the environment. In areas where impact would be generated by the use of small tracked vehicles, non-portable drill equipment can be used or the shot holes can be offset to an area that would not be impacted. Data quality considerations must be taken into account when determining offset locations. However, not allowing shot holes in areas where minimal impacts would be generated from this activity will unnecessarily result in poor to possibly unusable seismic data quality. SNEPI realizes some important resource areas may need to be avoided. These highly sensitive areas should be identified in the planning stages.</p>
<p>OPERATIONAL STIPULATIONS: GEOPHYSICAL OPERATIONS, page 358 (26): "Use of drill bucket and disposal of excess acidic soils..." Stipulation 38 contradicts stipulation 26. SNEPI agrees with the guidelines in stipulation 38, but does not agree with the required usage of a drilling bucket or comparable device. Since excess cuttings, after back-filling the shot hole, will be spread around the shot hole, there is no need to use a containing device. This requirement is unnecessary and will result in increased shot hole drilling time and expense. SNEPI recommends that shot hole cuttings in acidic soil areas be back filled into the shot hole and that excess cuttings be removed from the acidic soil areas.</p>	<p>OPERATIONAL STIPULATIONS: GEOPHYSICAL OPERATIONS, page 358 (35): "Use of signs." SNEPI recommends that the Florida Department of Transportation (FDOT) be consulted concerning the use of road signs and this agency's regulations be followed. During SNEPI's 1988 operations, the use of road signs was not allowed by the FDOT.</p>
<p>OPERATIONAL STIPULATIONS: GEOPHYSICAL OPERATIONS, page 358 (41, 42, 43): "Reclamation requirements." SNEPI proposes the words "caused by geophysical operations" be included in these three stipulations.</p>	

- 8. See response 3 above.
- 9. The stipulation has been revised; see stipulations 22 and 34.
- 10. The stipulation has been revised; see stipulation 31.
- 11. The stipulations have been revised; see stipulation 37.

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COMMENTS

RESPONSES

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**OPERATIONAL STIPULATIONS: GEOPHYSICAL OPERATIONS, page 359 (44):
USE OF SURVEY SCREENS.**
The requirement for a turbidity screen during reclamation activities is unnecessary. Stipulation 33, all phases of a mining zone, should apply to all activities during a geophysical survey as long as the defined guidelines are met.

12. See response 106 to the Collier Resources Company.



February 19, 1990

TO: Fred Fogertgren, Superintendent
Big Cypress National Preserve
FROM: George E. Papp, Landscape Architect/Park Planner
SUBJ: Comments on Big Cypress National Preserve
Draft General Management Plan

The Big Cypress National Preserve Draft General Management Plan has much value in its comprehensive approach to management of the Preserve for its many and varied purposes. One general area, however, appears to have been overlooked, and that is how does this major unit of South Florida's natural resources fit and/or complement the region's tourist needs. Yes, the document does note any data on who is doing what (current use) at the preserve or who would like to do what (latent or unsatisfied demands). It is difficult to understand the proposed uses, their kinds and extent without more data such as is presented on the water problems and endangered plants and animals. One item that can be cited as an example would be non consumptive use of wildlife, i.e., bird-watching, animal watching, nature photography, etc. According to the 1985 National Survey of Fishing, Hunting, and Wildlife Associated Recreation published by the U.S. Department of Interior, Fish & Wildlife Service, participation in non consumptive use of wildlife is increasing along with fishing (+402,955 to 1985), while hunting is decreasing (-162,955 to 1985). Based on this information it would appear that much more emphasis should be placed on programs and facilities for non consumptive wildlife associated recreation.

Tourism is the primary industry of Southwest Florida and the Keys and a major economic factor for the West Coast. South Florida's climate and natural resources are the focus of this industry. The weather is beyond the scope of our control, but the resources are not. To manage any unit of regional resource, it is necessary to know its natural factors and its social/political relationship and the demands that are likely to be placed on the resources.

Only through a thorough regional study of existing and proposed resource-oriented and resort/recreation-oriented facilities and their users can a realistic plan of action be taken. I strongly recommend that this effort be undertaken. With its findings available, a realistic projection can be made of what facilities should be provided by which resource units. Without such a study, the proposed plan of action for Big Cypress can only be judged for its well-documented natural systems management plan and not as a "comprehensive management plan" of the resources and its people needs.

Landscape Architecture, Site Planning & Design, Residential Design, Environmental Studies, Park Planning
628 Woodbine Lane, G-1 • Naples, Florida 33942 • Phone (813) 261-6082

1. The legislation establishing the preserve directs that natural and cultural resource values be protected while providing for public recreation within the context of those values. The National Park Service welcomes new information on regional recreation needs in addition to the state comprehensive outdoor recreation plan. While the Park Service believes the level of visitor use data in the final GMP/EIS is adequate for the current planning effort, additional data would be beneficial. For this reason a visitor survey at Big Cypress is included in the proposed action.

In addition to this overall criticism of the plan, several specific details are commented on as follows:

- 2. p. 26 - Tracking is not shown as a land use anywhere, and it is difficult to identify land uses on the report maps.
- 3. p. 31 - Nothing is shown regarding the uses of the "reservoir" or for that matter, what is currently existing at the facility.
- 4. p. 37 - General Development Planning objectives of providing visitor facilities and operations with wildlife management. Why is this a National Park or a preserve/recreation (hunting, trapping, fishing, etc. permitted)?
- 5. p. 39 - Best adaptive reuse of existing non-historic buildings really reduce costs?
- 6. p. 51 - Canoe and hiking trails - where possible these should be loop trails to reduce the need for ferrying people between start/end points.
- 7. p. 52 - Nothing noted for wildlife observation facilities.
- 8. p. 92 - The number of O.R.V. access points seems excessive and maybe out of proportion to what use would likely occur.
- 9. p. 145 - A very well done useful summary of all proposed actions. This could well be featured in the introduction.
- 10. p. 213 - These numbers are questionable due to the distortions that are probable from the tourism/destination aspects of South Florida.
- 11. p. 157 - Why not provision for bicyclists? Bicycling at SMITH ISLAND has substantial bicycle use.

- With a well integrated development proposal Big Cypress could complement Everglades National Park and possibly relieve some of the inevitable user pressure the national park will receive.

p. 258- Considerations mentioned here are difficult to relate to previous material and appear to be too little, too late.

- 2. As described under "Planning Issues and Management Concerns, Issues Beyond the Scope of the General Management Plan," grazing leases within the preserve are being phased out and are not addressed as a planning issue. The section has been revised to indicate all leases are in the Bear Island and Deep Lake units. The Management Zoning map depicts the proposed land use management scheme for the preserve. See the "Planning Perspective" section.
- 3. See response 1 to the U.S Fish and Wildlife Service.
- 4. The congressional intent for minimal development is documented in the legislative history of PL 93-440.
- 5. In many cases adaptive use can significantly reduce costs.
- 6. Several of the proposed interpretive trails and boardwalks would provide the opportunity for viewing wildlife. Proposed visual corridors along major roads would also ensure that roadside habitat was protected to support wildlife viewing.
- 7. The proposed action includes developing several traditionally used access points, while eliminating others. The National Park Service feels the proposed consolidated access points would be appropriate.
- 8. The "Introduction" has been revised to reference the summary tables.
- 9. As stated in the test, the figures in table 34 in the draft GMP/EIS (table 37 in the final) are based on data from the Bureau of Economic Analysis and the NPS nationwide recreation survey.
- 10. The "Proposed Action, Other Recreational Activities" section has been revised to include bicycle use.

National Park Service
Big Cypress National Preserve
c/o Fred Fagergren

Dear Fred,

As a result of our meeting of July 21, 1989 and at your suggestion I have put in writing my comments and ideas on the General Management Plan for Big Cypress.

As we discussed I have also prepared an area map from a composite of Ortho photos. I have marked on those maps routes etc., that I feel are reasonable and acceptable restrictions for ORV, airboat and camping use. I have also attached a list of my qualifications to indicate my familiarity with the subject.

I will try and be brief and list my opinions and ideas only in areas that I feel need clarified or changed. In general I feel you have done an excellent job of trying to deal with some very complex problems. I would like to take this opportunity to commend you on your professional management of Big Cypress National Preserve. I must say I am amazed you have been able to accomplish so much in such a short period of time.

Please call on me if you or any Interior Department personnel wish to discuss this or any other matter in greater detail. Thank you again for taking the time to meet with me and for your review and consideration of the enclosed suggestions and map.

Sincerely,

Fred E. Dayhoff
Fred Dayhoff

copies sent to:
Associate Director Jack Morehead
Southeast Regional Director Bob Baker

HUNTING

PAGE 1

<p>13 hunting should be allowed in all units. Hunting is indeed a very traditional use.</p>	<p>2. I feel both the National Park Service (NPS) and the Florida Game and Freshwater Fish Commission (FGFC) should try and continue to work hand in hand on the game commission part they need to remember this is a national preserve not an area where the sole intent is to raise game (native or exotic) in order to create a maximum game harvest with high hunter use and high rates of hunting licenses/permits. On the part of the NPS they need to remember that this is not a National Park and that the intent of congress and legislation guarantee the right to continue to hunt in a reasonable manner.</p> <p>We need to maintain hunting but we also must control it and not allow the area to return to the days when only one agency had full control. We need a two party system so there can always be a constructive discussion concerning the preserve and its use by the public.</p>
<p>3. We need desperately to reduce the number of hunting days per year. In years gone by (prior to 1970) when we had more game and less hunter pressure and less high tech GUV equipment we had shorter seasons even split seasons with bow, rifle and seasonal bag limits. We had no early bow or muzzleloading seasons, late rabbit season or a gun and light season for raccoons. So with more people, more GUVs and less game we need to reduce the seasons and put into effect ways to temporarily close some areas to some types of use, game harvest and reduce bag limits.</p>	<p>A. Shorten general gun season to about 45 days start Nov. 10 and Jan. 1, at 1/2 hour after sunset this would allow hunting over both holiday seasons which is traditional, as seasons in the past started on Nov. 20 into Jan.</p> <p>I realize that occasionally some bucks shed antlers in late Dec - but there are still plenty around that have antlers. I feel this does not need to be considered as the rationale for the earlier starting of deer season as some might.</p> <p>B. Deer - Buck only 1 or more 5' antler for all seasons, bow muzzleloading and general gun. There is no reason to be killing young "hubbins" just because its bow season.</p> <p>C. Deer - 1 buck per day 2 per season maximum.</p> <p>Due to starting general gun season on or about Nov. 10 we should then accordingly start bow and muzzleloading season later also.</p>

1. Hunting would be permitted in all units under the proposed action.
2. See response 2 to the Florida Game and Fresh Water Fish Commission.
3. The hunting management proposal has been revised based on negotiations with the Florida Game and Fresh Water Fish Commission. The recommendations in this comment are within the range of alternatives considered in the draft GMP/EIS, even though the level of detail in the comment is beyond the scope of a general management plan.

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4. See response 4 to the U.S. Fish and Wildlife Service.

5. See responses 8 and 9 to the U.S. Fish and Wildlife Service.

PAGE 2

Muzzleloading - 16 days except Deer Island where season would be 5 days. Season start on Oct 28 to Nov 17. No muzzleloaders on airboats.

Bow season - 16 days starting Oct. 7 - Oct 22. no bows on airboats.

This gives the hunter 77 days of bow, muzzleloading and general gun to take deer, hog or turkey. By starting the season a little later weather is cooler and pleasant for being in the field. It also allows for law enforcement/check station operations to become more compact, which should allow funding for continuous patrol and check station operation from Oct through Jan 1. This would cover a total of 87 days instead of over 114 days as is the present case at these 13 seasons. I think with a more compact 67 day period check stations could probably continue until Jan 1 through rather than open and close several times. The Net and fence could then work easily against the area with patrols and concentrate their efforts over a shorter, extended period. This should save money on seasonal employee cost as well as allow both agencies to have time to do more research, earth/blast control and prescribe hunting. These projects have all, in my opinion, fallen far short of what should and could be accomplished.

DOGGS - The 19 day season should fall in mid season. No hunting dogs should be allowed in the Stairstep, Loop or Deep Lake this 19 daytime dog season Oct 5-17. Dogs should not be used the first of season due to harassment of game, making it more difficult to approach by the average hunter.

MOSES - Dogs should be controlled and eradicated if possible South of US 41 particularly in the Stairstep unit southeast of Baton Rouge. There should be no size limit or bag limit. They should be allowed to be taken in any method that would not affect other wildlife. I've found dogs destroy eggs of all ground nesting birds such as turkey and quail. In addition, they also destroy iguana tree snail eggs at the tree base by rooting up the area. Stairstep unit is most sensitive due to the fact that ground nesting birds and iguana need high ground, which in some years is very limited. There is also a problem with ferret traps getting established in EVER. With virtually no hunting pressure in EVER they would be very difficult and costly to remove and cause considerable damage.

6. See response 2 above and response 12 to the U.S. Fish and Wildlife Service.

PAGE 3

There have been many problems from hogs disturbing vegetation and wall in other NPS units and in nearby areas as well. Hogs are destroying the eggs and young of plantings on Great Inagua in the Bahamas. There, they have found it necessary to have a full time hunter, to try and reduce the pest. Hog population in other areas of the NPS they have spent thousands of dollars annually to remove. I feel NPS should be more judicious that they are practicing in TICV.

I realize that panthers catch hogs that is because they are the easiest animal to catch. A man can hunt one down and catch it in an open field. Panthers are voracious, opportunistic, alligators, deer, turkeys. I have even seen them eat mud fish in low water areas. I've managed the game correctly there is sufficient food in TICV for the panther. HOGS ARE NOT NEEDED! An example is that years ago some goats were released in Big Cypress, which the panthers really enjoyed, but that they mean we should rethink goats more goats.

TURKEYS - There is no longer a real turkey population south of the Loop Road. There are a few in the center of the Loop and some in the west (statistop area near Turner River canal).

In the 1950's and up to the early 1970's we had a good turkey population. In the years 1980 - mid 1980 you could count up to 50 turkeys on a drive around Loop Road. By the 1970's this was down to only 5 to 20 birds in the same area and since 1978 we have had only one sighting of a turkey. This has got to tell you something is wrong and needs correction. In other areas of the preserve there seems to be a fairly steady turkey population although it has dropped 25% from the 1950's. At least they are still seen and are in numbers where hunting is still reasonable for sporting (poor) season.

I would suggest a reputation be placed on turkey hunting south of US 41 and southeast of East Rock Strand with a study done and a trapping program (outside preserve) you could reintroduce BRASS BIRD TURKEYS. If brought in they should come from a nearby area where that population would allow for removal.

We must also have an aggressive prescriptive burn program south of the Loop Road and the interior prairies and pine country in the Loop Unit. Otherwise turkey will not stay in an area that is overgrown with sedges and grass. This is how the area is at present. Here I must be very critical of the NPS/GWFC for not doing any prescriptive burning south of Loop Road and have actually considered suppressing non harmful fires in these areas.

PAGE 4

RACCOONS-I cannot see why there needs to be a raccoon season where gun and light is used as it opens up the possibility for deer and other game to be taken with the use of a light and 22 rifle. This is the preferred firearm for illegal gun and light (fire hunting) since it is quiet and effective. I further do not know of any law enforcement officer who when hearing a shot and seeing a light far from the road is going to wade through the deep water and rapids to their "coon". Nobody is as in the past a gun and light were prohibited the illegal hunting. Furthermore raccoons are known to be a preferred food of panther and bobcats. If anything we should encourage the killing of raccoons where as trapping the animal is sufficient. If a kill must be taken once in a while (for the dog sled) half the time the coons can be taken from the trees, although this is not a pleasant sight to see. I just there should be no raccoon killing allowed during this hunt.

CAMPING- For the most part I feel camping should be generally permitted anywhere. Exceptions would be no camping in areas designated as historically significant, tribal communities, near Native American use areas/camps, bird sanctuaries or other sensitive sites.

The area south of the loop (including Loop, Irons, Pine, J. Gub) where open camping will disrupt wildlife and damage tree stands (Great Indian Handstand) which are limited to this area which is the habitat of Liguas tree toads.

Camping along road shoulders should be discouraged and designated campsite should be used where possible.

CONCESSIONS- I feel the Micosukee Tribe would be very much interested in participating in this program. In my opinion concession operations should be set up only at Monroe Station, Ochopee area and Paolita Station.

The Monroe Station building needs to be protected and saved as a historic site. This area is ideal for central GPO storage and visitor services. Its location on US 41 and at the west end of the Old Leon Road make it an ideal spot.

Access to road from Monroe Station is an Indian village. I would hope the two sites could be integrated as the Micis, Native Americans could find employment with the concessionaire.

7. The proposed action includes eliminating night hunting for raccoons.
8. This recommendation is similar to the proposed action.
9. In keeping with PL 93-440, the Micosukee and Seminole tribes would have the first right of refusal for preserve concession operations. Concession facilities are proposed for Monroe Station and Ochopee, but not at Paolita.

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<p>Paolite Station is in the woods eastern end of the preserve. It also has an Indian village across the highway. Here again these people could find employment with the concession and could be of great value. The fact they want to live there and understand the area makes them a bonus for a concession operation.</p>	<p>BACKCOUNTRY SHELTERS I do not feel many shelters are needed and further believe they would be vandalized severely (if not destroyed) on a regular basis, especially south of the Loop.</p> <p>IL ISSUES CONSTRUCTION COMMENTS - I believe there (2) sites inside the Loop Unit across the center would be critical. It is difficult to carry in sufficient supplies for several days.</p> <p>South of Loop Road and Stair-step Unit, eight (8) to ten (10) should be more than enough. I would be glad to offer my opinion on their placement. There should not be any others constructed except along the Florida Trail at five (5) mile intervals.</p> <p>All sites should have a well, several (well) fire pit areas, animal proof trash containers and some bins for regular trash pick up and maintenance.</p> <p>When these shelters are constructed I am sure the Miccosukee Tribe would like to bid on them. I do feel NO NATIVE BUILDING MATERIAL SHOULD BE USED.</p>	<p>MINERALS MANAGEMENT</p> <p>1) The NPS should not allow under any circumstances the construction of roads or dozer trails inside the Loop Unit. This area should remain as it is today, without further ecological damage from oil exploration/extraction.</p> <p>2) South of Loop Road and southeast of New River Strand is an area that should be left but off limits to oil exploration as the soil and vegetation in this area cannot stand heavy equipment. The effects of oil exploration in 1926 are still evident today.</p> <p>3) I do believe the oil well road going north from US 41 west of the Jet Port should remain even when and if the oil wells cease to operate, as this would make an excellent nature trail for walking and bicycling. In addition it is a valuable access point for fire management and study where ORV's would not be necessary.</p>
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10. The actual location of backcountry shelters is beyond the scope of the GMP and would be determined by preserve management. Resource protection would be a prime consideration in the design and siting of backcountry campsites.

11. The area south of US 41 is recognized in the plan as particularly sensitive to impacts from oil and gas development because of the concentration of important resource areas and the close hydrological link to Everglades National Park. While the plan does not ban mineral operations south of US 41, the stipulations in the "Minerals Management Plan" are intended to protect such areas of concentrated resource values.

The Eleven Mile Road to the Raccoon Point oil field is expected to be used by mineral operators for several decades and will not be available for public use within the life of this plan.

12. The final GMP/EIS has been revised to state that an ORV management plan would be developed based on the direction provided by the GMP. The ORV management plan would address vehicle permitting standards, ORV trail locations, and other details of implementing the GMP.

PAGE 6

ORV / AIRBOATS

1) Due to the difficulty of reaching many areas in the preserve on foot, it is necessary to use some type of off road vehicle. However, the NPS needs to limit the weight and width of these vehicles as well as control the number of vehicles. Through my own experience of constructing the swamp buggies for over 25 years, I have found no need of building buggies that weigh over 1500 lbs.

The first buggies I constructed were powered by engines as small as 5 horsepower and weighed less than 450 lbs. and could easily transport two passengers. What seems to have occurred through the years is the altitude that "bigger" is better. The ideal swamp buggy should be in the 2000 to 3000 lb. area and be no more than 67" feet in width. I have sketched in writing below to the NPS that any buggy over 4500 lbs or over 61" width should not be permitted in the preserve.

The NPS should also set up a regulation requiring so many square inches of tire ground surface per 100 lbs of weight. These are studies in the files at EICV which address this subject so I will not go into it further here.

AIRBOATS

2) I think now is the time for the park service also regulate the size of airboats that will operate in areas other than where existing commercial airboat rides are now in operation.

Most airboats used today in the preserve are 6-7 feet wide and 10-14 feet long. Airboats larger than this in width will definitely cause vegetation damage on the existing airboat trails. This is particularly true where the trails cross swagress strands and other areas of dense vegetation.

In the future I foresee a possibility of some commercial tours in the preserve and do not think the use of 819 10-12 ft wide by 20 ft long foot long airboats is acceptable due to the ecological impact. Since there is no operation of this scope at present, I feel this is the proper time to write regulations limiting the size of airboats.

ATC

3) All regulations are in place which have temporarily controlled the use of the "ATC" by not allowing them to be used for hunting or fishing, but they are still in use for "recreational riding".

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The NPS needs to prepare for an ATC invasion due to the possible closure of east overpasses and also because variant lanes on the Pacific County are almost gone. When the roads close ATC riders can no longer use these areas they will almost certainly head for Slick and the Loop Road area.

The people using the preserve now for ATC recreation are the most hard out to ride. They are not out to see how much ground they can tear up and how much mud they can get on themselves. To better convey my worst fears I think Park personnel should go to the area just west of 137 Avenue and east of Krome Avenue on 05-41. Here they can take a close look at that area (on a weekend) and observe the use pattern and ecological effect. This is a reality for the preserve, unless some regulation is there to prevent it. Now is the time to act not after the devastation has been done.

DRY-BUGGY-AIRBORNE USE AREAS

I agree with the NPS that the at-risk/buggy issue must be addressed and some controls put in place. However, I think the proposed action as I understand it is not practical or acceptable in some areas. I think the plan for Bear Island, Corn Zimba, Deep Lake and Turner units are correct and well thought out. (I have prepared a map from ortho photos that it will be necessary to refer to for the information below to make sense).

Exceptions to Proposed Plan

1) I think the area south of Deep Lake between Turner River Road and Burdon Road should be left in only and administered similar to the Deep Lake unit except shotguns should be permitted and the same should apply to the area of the west boundary west of Burdon Road and south of Uagon Wheel Road.

These areas are very small and have roads on several sides which makes exit in very easy being only 1/2 miles walk to reach the center of the furthest point from a main road.

My other concern is the close proximity to several major roads and residential/commercial use areas. This is why I feel rifles should not be permitted. Shotguns, bows and muzzleload weapons would be appropriate for this area.

SEE MAP

PAGE 8

2) The area adjoining Halfway Cypress and US 41 north of
 we have should be left open to buggy use up to about 1/2
 miles north of US 41 where an old lime stone road goes west
 from Funcher Road. This area is heavily impacted by commercial
 buggy rides and dirt roads and farm fields
 There should be little restriction to ORV's

The area around the Turner River Indian mounds north of US 41
 should be set aside as an area for nature trails and no hunting
 permitted in that small area except deerhags on the lake which
 Turner River flows from due to the fact a few people use this
 site for duck hunting. I suggest shotgun only for the lake and
 river, with shot not larger than what is normally used for duck
 hunting
 SEE MAP

Turner River

No power boats should be allowed on Turner River north of the
 airport trail that crosses it to the south.
 SEE MAP

Turner Canal

No airboats should be launched from US 41 at Turner Canal.
 SEE MAP

Donna Drive Airboat Launch

Donna Drive Dechope area should be the only public launch site
 west of Barnes Strand.
 SEE MAP

BUGGIES AND AIRBOATS

Please see ortho photo map for detail

- 1) Only airboats should be permitted west of Turner Canal.
- 2) From Turner Canal east and south east both buggies and
 airboats should be permitted with the following exception.
 No airboats allowed east of Skillet Strand and north of New
 River Strand.
 See Map

PAGE 9

3) Swamp tuggies would be permitted to a point on a line Westport point 28 423 approximately 1 1/2 miles south of Sun Slough and east to a point just east of Dayhoff Slough as indicated on the photo map. This point could be approximately 3.5/16 miles south of Isaac Bend. Beyond this point the soil is very soft and use by wheel bogies is so major damage. So beyond this area only airboats should be used except in extreme dry conditions on designated trails only (at discretion of superintendent of BICVA).

There are four (4) inholdings in the airboat country that the owners would need access to during dry season by buggy and perhaps during these times the public could also use tuggies on these trails ONLY. I have indicated with a red line where the road direct trail runs.

Airboats would be allowed to operate anywhere east and southeast of Turner River Canal (except east of Skillet Strans and north of New River Strans) all the way to the boundary of Even. Which is to say airboats would be allowed anywhere in the Strans area east of Turner Canal except as indicated on the ortho photo map.

There are really no areas of vegetation that airboats can harm without doing more harm to the airboat so this is self limiting. However if it was found that airboats were used to intentionally destroy mangroves, sawgrass, and willow stands with the intent to make new trails or to harass or flush out game, then this should be prohibited under destruction of vegetation, natural features etc.

Airboats have little adverse impact on soil and slight impact on vegetation except heavily used areas such as main trails. So I feel limiting them to trails or areas is not necessary.

Launch Sites

I have indicated on the map both buggy and airboat launch sites and feel these should be limited and controlled to include existing public launch sites which I have indicated. However on occasion airboats are launched or loaded at some buggy launch sites during high water or in the case of retrieving traps, down equipment-- so the nearest point to the equipment and road may be used.

Again airboat launching is self limiting due to rocks, water and vegetation, so as long as no new launch sites are created with heavy equipment I can see no problem regulating this.

- 13. The Loop Road would be improved as a low-key scenic drive under the proposed action, but it would not be made one way.

PAGE 10

There are several private launch sites in the Swartsdale which have been in use for many years and there is no reason to change that as long as the use pattern of these sites remain private and do not become commercial/public launch sites.

I have indicated launch sites, airboat launch sites with a circle with the letter A in the center. Buggy sites are a circle with a letter B in the center. Airboat and buggy combination is a circle with the letters BAE. Private sites I have not marked but leave from a residence or commercial establishment.

The only other comment I would like to make in vehicle use in the preserve is that I would like to see the Loop Road become a scenic drive with perhaps a one way section between the buggy/airboat landing at Fisher's Lake Strand and the curve in the Loop near Sig Walver Strand. This idea may not be logistically possible however.

COMMENTS

RESPONSES

Comments relating to
The
Draft General Management Plan
Draft Environmental Impact Statement
For
Big Cypress National Preserve

Submitted by
Jan Michael Jacobson
S.R. Box 52, Loop Road
Ochopee, Florida 33943
February 26, 1990

1. See response 33 to the Everglades Coordinating Council.

2. The proposed action provides for dispersed use, both along existing road corridors and through an extensive network of backcountry ORV trails.

Having lived in the Big Cypress Nat. Preserve for the last ten years and being the owner of an Inhaling in the B.C.N.P. I have a number of responses to the proposed draft general management plan.

To begin, I must point out that the intent of Congressional as expressed in P.L. 93-440 seems to have often been disregarded or ignored. Single species management policies, long discredited elsewhere, seems to be alive and well in the Big Cypress. Visitor used facilities have been removed or closed and visitor usage has declined sharply while the surrounding human populations, and their needs for outdoor recreation, education, and general access, have not been met. Nationally recognized programs for the general public have met not with management support or encouragement, but with blatantly illegal official harassment.

Vehicle use policies have been promulgated which have no scientific basis in fact. Indeed, the stacked vehicle temporary ban (in several years may be termed temporary) is based upon an assumption which the Audubon study, substantiated though it is, clearly did NOT support. And the expansion of a long needed independent education and research facility, although clearly allowable under regulations and in light of past and present practices, has met with continuous harassment, hostility, and officious delays. One must assume that these situations are the result of errors or oversights by local authorities, rather than the desired policies of the Secretary of the Interior.

Visitor usage has dropped dramatically (unless one accepts the figures garnered by counting every car traversing the Preserve on US 41 and considering them as "visitors"). In the ten years that I have lived on Loop Road I have seen N.P.S. remove nearly all of the traditional parking/access areas on Loop Road by placing back-hoe dug barriers across the side roads. An even more questionable aspect of this management practice is that the barriers are often not on N.P.S. owned lands. Those aspects of the proposed plan which allow the dispersed access which is the traditional use pattern need to become part of the final plan. When visitor access is dispersed, impact is less concentrated.

While it is true that the rapid regrowth of floral succession stages in the B.C.N.P. cause vehicle impact rapidly (and visitor access by vehicle is a necessity due to the terrain (see Appendix A)), the ecosystem is able to sustain more usage where impact is dispersed. The quality of visitor

experience is also enhanced by dispersed access as the traffic car effect of crowding is avoided.

Not one garbage can has been placed along the Loop Road in the ten years with which I have lived on it. I offered fifty barrels, and volunteer labor to empty them. Mr. Fagergren said that we would have to take the collected garbage to Miami and pay the dump fees as well. Also, the volunteers considered these conditions to be unacceptable.

As one part of one alternative mentions garbage cans, I hope that the final plan will include placement of the long over-the-cans. With a less hostile management, I feel certain that the private sector could be mobilized to a far greater extent than has been accomplished to date. The obvious situation would hopefully be an easy example. The Preserve is such a potentially beautiful resource, but having it strewn with garbage does presently detract from the visitor experience.

During that time I have developed nationally acclaimed general public programs as well as academic programs for such diverse student groups as the gifted, the emotionally handicapped and the learning disabled. The general public programs were considered by experts to be among the finest outdoor experiences available anywhere and are to this day listed in such accepted standard references as Mobile Guide and Frasers' travel guides.

Both the general public programs and the educational programs depended in large part upon the use of specialized vehicles. The tracked vehicle which I designed and built for use in this area was created to meet (and far surpass) the parameters provided by the Everglades Nat. Park and S.C.R.P. Superintendents. In order to meet the requirements of the modern curriculae with their need to cover far greater amounts of data and to do so in greater depth than ever before, I developed the "Mobile Classroom Concept" which entails bringing the modern learning environment into the fieldst being studied.

Now, for the first time in the history of education in the Everglades, the teacher has available on study all the books, scientific equipment, A/V video and computer equipment needed for competition & comfortable attentive classes; and all of this with less than half of the weight on the ground per sq. inch that a human foot would exert.

If the Bush Administration is serious about being the "Education Presidency", this nationally used, innovative program must be included in the final plan to allow vehicle regulations to become a possible mechanism for inhibiting or modifying independent education programs generated by the private sector would seem to be both counter-productive and

3. Along the Loop Road proposed ORV access points, trailheads, and campgrounds would include garbage receptacles. Trash pickup on private property and county rights-of-way, such as the Loop Road, is the responsibility of the owners.

4. While environmental education is a desirable activity in the preserve, the impact of such a large, tracked vehicle is not in keeping with ORV management policy.

5. The Jim Dill pit site was considered but rejected during planning because the location does not provide camping near an ORV access point. ORV use is the primary activity in the area.

directly at odds with the administration program and philosophy. All of us have long enough to see the way when there are so many education programs in Florida that they pose a risk to the habitat of the B.C.N.P., but alas, Florida is last among all states on many education criteria. Therefore we are at a loss to understand the present B.C.N.P. Superintendent's continuing hostility towards this program of proven excellence.

To facilitate the possibility of future problems I would like to suggest that the Plan include the permitting, as a matter of course, of education or research vehicles meeting the following criteria:

1. Vehicle design and performance appropriate to study or research area.
2. Determination of organizational status to be defined by standard professional criteria.
3. Operation of educational/research vehicles to be restricted to qualified operators.
4. Area restrictions to be limited to areas where permanent impact could be clearly expected, such as off-existing trail operation in deer/cypress habitats.
5. Tracked vehicles should be regulated on the basis of the only significant factor, ground pressure. Size and weight are only important insofar as they indirectly reflect ground weight, commonly rated in pounds per square inch of vehicle area in ground contact.

The mention in part of the Draft Plan of a Ranger Station on Loop Road, near the Institute, is an excellent concept which I would hope would become a part of the General Plan. A law enforcement presence on the Loop is long overdue.

One part of the plan which seems to be potentially a problem is the designation of the "Red Bird" camp area. The Institute has had occasional problems with gunfire originating from this area. A law enforcement presence less distant than the present half hour away would do much to inhibit the very small number of hunters violating the "no shooting at camp areas" rule now in effect.

However, I must point out that there is a far larger area much more suited for a camp designation (many more pre-existing relatively isolated from each other sites with birds) in place roads and a large lake, less than a mile from Dill Road in the above mentioned area. Yet this area is not only not scheduled for any use, it has recently been

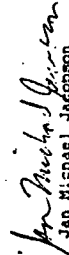
6. The I-75 Recreational Access Plan/Environmental Assessment addressed subsistence fishing in borrow canals along I-75. The three access points mandated by PL 100-301 on I-75 within the preserve would maintain fishing access in the Florida Department of Transportation right-of-way.

closed off by locked chain barriers, while this provides a level private lake for the three homesteads nearby, such that consideration of these sites may seem to be accomplished at a high price to the general public which is now totally excluded.

As the camping need of the surrounding population will only increase with time, I would hope that the aforementioned private preserve within the public Preserve be used to meet the needs of the public as Congress wished.

There is within the Drait plan no mention of mitigating the impact upon the black populations of the removal of their traditional fishing sites along the Alligator Alley/I-75 route. While the access sites mentioned in the plan may meet the needs of the almost operators and the bass boat operators who are virtually all white, the traditional canal bank fishermen (many of whom were black) are now restricted to a fish production of the site once usable by them.

Surely this is only a oversight oversight; however this seems an appropriate place to broach the subject.

Yours truly,

 Jan Michael Johnson
 Director
 The Everglades Institute

Appendix A

The lack of feasibility of travel afoot in the Everglades is difficult to comprehend for those who have never walked it. The experience of Army Special Forces in matters of foot travel in the Everglades is most enlightening.

The opinion of the commanding officer in charge of the Special Forces training mission which occurred in the Everglades was that due to difficulty of travel afoot, the training value of missions unsupported by vehicles was not worth the expenditures and difficulties encountered.

Since one may safely assume that these troops were in better shape physically than the general public, the wisdom of Congress in mandating the Preserve as a vehicle use area is apparent. One might hope that the management plan will allow the vehicle use without which visitor access will be effectively denied.

Further data from the above-mentioned officer may be obtained by contacting The Everglades Institute.

COMMENTS

RESPONSES

COMMENTS ON
DRAFT GENERAL MANAGEMENT PLAN

DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR
BIG CYPRESS NATIONAL PRESERVE

Submitted by
Earl R. Rich, Ph.D.
6830 S.W. 48th Terrace
Miami, FL 33155

May 1, 1990

1. The National Park Service welcomes research from independent researchers. NPS policy requires that such researchers be fully qualified, meet current standards of scholarship, and avoid manipulation of preserve resources. Permits for such research are issued routinely in the preserve to a variety of institutions.

I am submitting these comments as a private citizen, one with an unusual background of knowledge, experience and professional interest in the Florida Everglades and the Big Cypress areas of south Florida. I am a professional ecologist, earned a Ph.D. degree in the discipline from the University of Chicago, and I am a certified senior ecologist (Ecological Society of America). I have participated in research and the teaching of ecology at the University of Miami since 1957. Recently I have been involved as a Director of The Everglades Institute a research and educational organization dedicated to the scientific study of the ecology of the Everglades and located at Pinecrest, on Loop Road in the Big Cypress Preserve.

SCIENTIFIC RESEARCH AND EDUCATION

As an educator and research scientist I am concerned about the deficiency of commitment to serious scientific education and research in the general management plan which the legislation establishing the Preserve sets forth. The multiple uses of the Preserve, hunting, fishing, off-road vehicle recreation, camping, hiking, nature walks and interpretation, as well as oil and gas production are all specifically included. There can be no doubt that serious basic scientific research and intensive education at all levels should have a high priority among the multiple uses of the Preserve.

As steward of the Big Cypress the National Park Service should be playing a leadership role in the development of knowledge about the ecosystem and understanding of the processes that shape it. Further, the NPS should be looking forward to the growth of increasingly sophisticated educational programs. It is unfortunately evident that NPS, at the Everglades Research Center and at the Big Cypress Preserve is unlikely to have the funding that are needed to build our understanding of the ecology of the Everglades and the inter-related communities. NPS research must have as its first responsibility the conduct of research essential for management. Basic research on the other hand must be free to inquire of nature without restraint or restriction. The basic researcher must be free to communicate his findings. The Department of Interior can not be asked to dedicate its limited resources to such non mission-oriented research when applicability to management may be remote.

In the traditional National Park where visitor impact can be minimized and there is no call for multiple uses as in the case in the Big Cypress Preserve, it would be difficult to give research by non-staff scientists or education conducted by professional educators high priority. But Big Cypress is granted a different level of freedom in these regards. At the present time the Everglades Institute is the only organization that would serve these functions. Although it is in a developing stage it

2. See response 33 to the Everglades Coordinating Council.

has a respectable history, particularly in education. It would be a much-to-be-hoped-for state of things that there were several such institutions serving the academic world in the Big Cypress Preserve. These concerns should be explicit in the GMP.

It is important to emphasize that a significant research and educational institution must be free and independent. The research scientist must not be beholden to management. This is the very basis of academic freedom. The scholar must be free to pose any and all questions - and to communicate them and all findings. The unfortunate history of research at EAMP (Everglades Research Center) which involved suppression of findings and prohibition of publication by an outstanding research scientist is sufficient to document the need for the freedom to study the ecology of south Florida without restriction or prior restraint. The Big Cypress National Preserve can not be expected to provide such an academic environment but it can and should explicitly declare that the Preserve ranks scientific research and education high among the multiple uses of the Preserve.

OFF ROAD VEHICLES

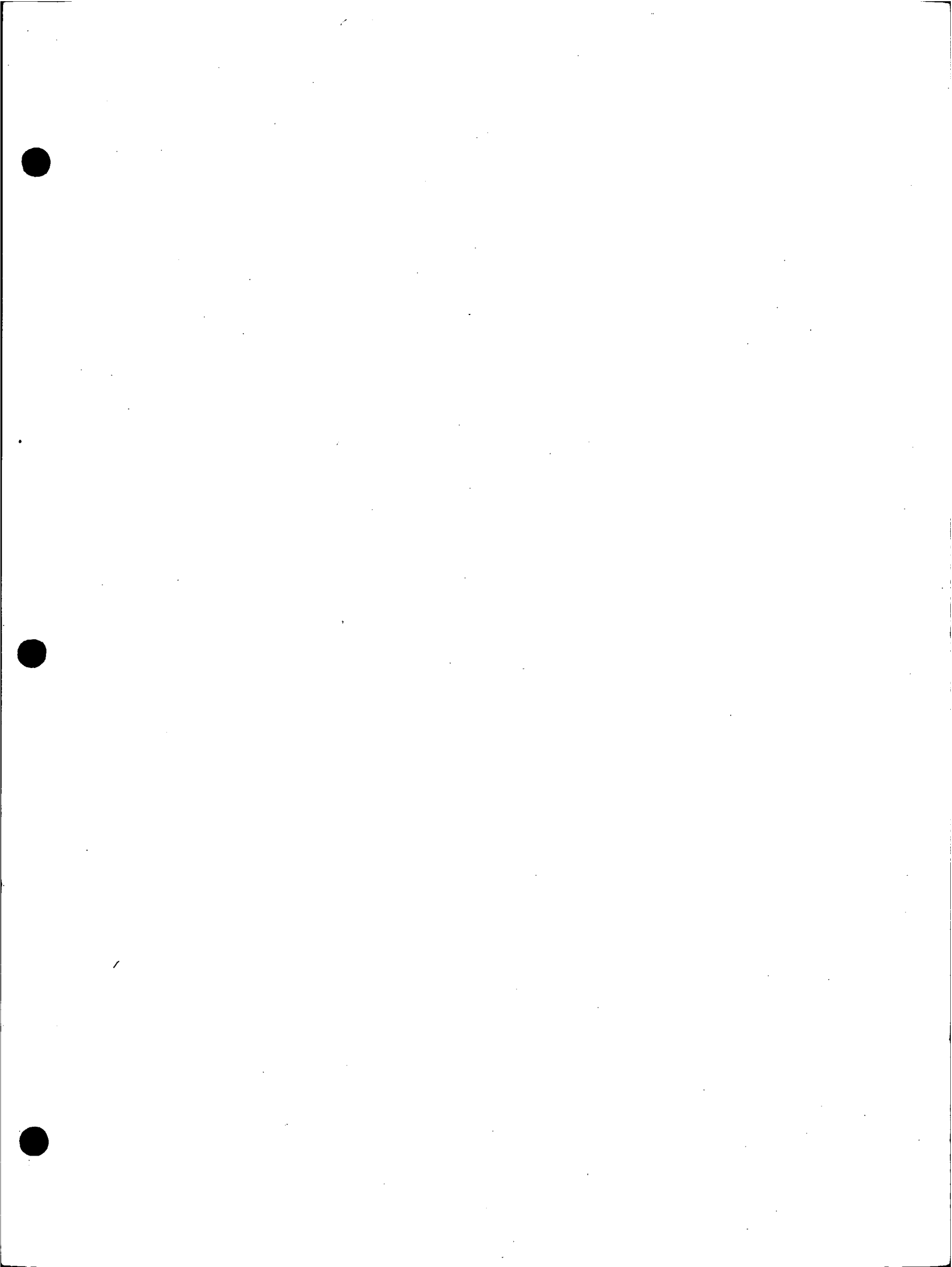
On the basis of the findings of Duever et al. (1981 and 1986) BCNP concludes that it would be appropriate to prohibit all tracked vehicles from the Preserve. The study did not find that tracked vehicle damage was permanent. In fact recovery of damaged wetlands was quite complete within 7 years. It is more important that the type of tread on the test vehicle (only one was used) is not the only tread type in use. The tracked vehicle of the Everglades Institute was designed and built to specifications worked out in collaboration with the RNP management and has a foot loading (pounds per square inch) that is appreciably less than the human foot. This vehicle was designed to serve as a mobile classroom laboratory. I have used it and found it to be an extraordinary field teaching tool. Such a vehicle should be permitted - and could be with suitable restrictions:

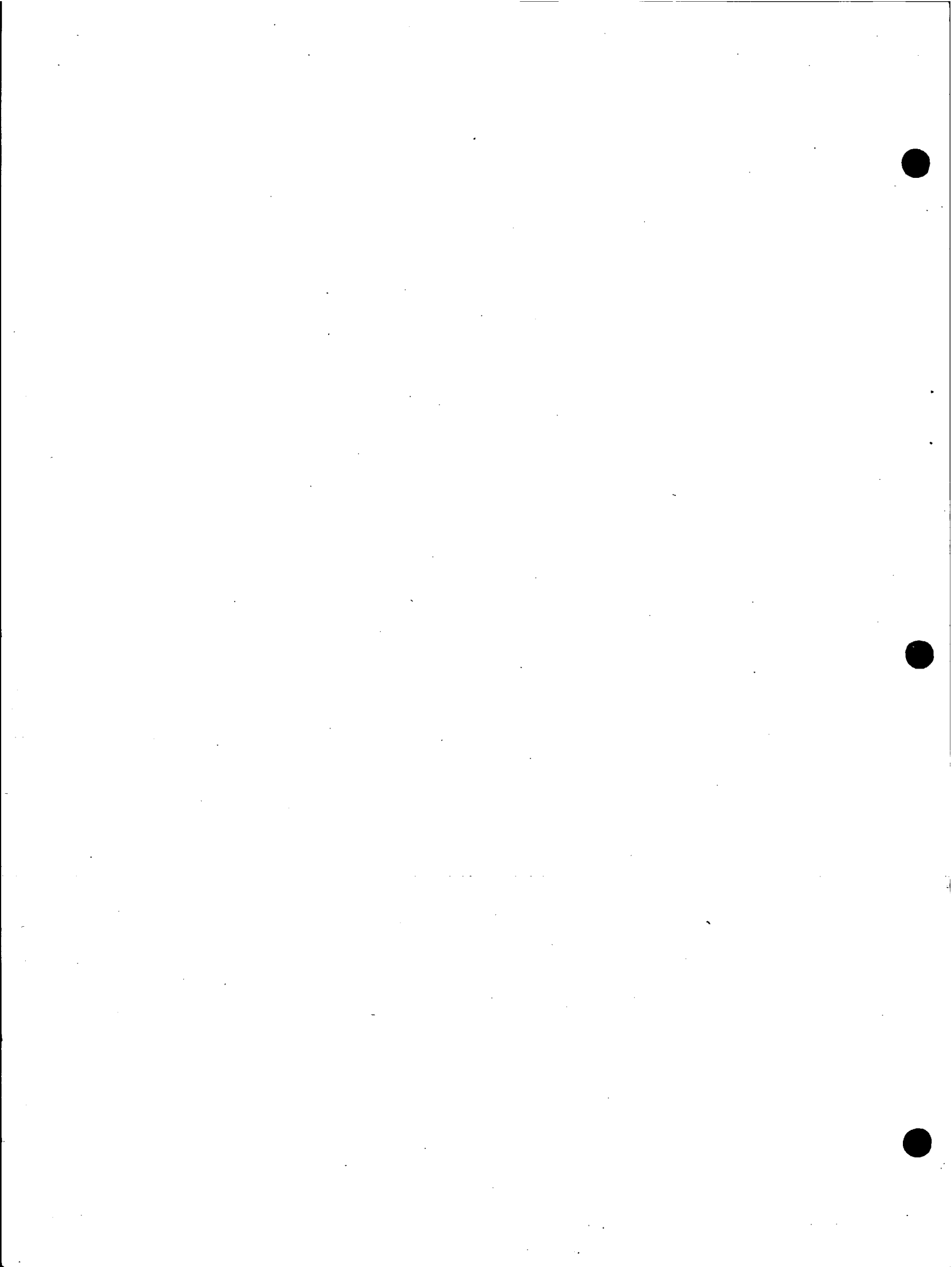
- Organization qualification
- Vehicle design and performance (foot-loading)
- Use restriction - education and/or research
- Area restriction
- Operator qualification

The major point here is that BCNP should not make a blanket prohibition. Permitting should be based on foot-loading, not on weight or length of linear track contact.

Further, BCNP should be able to use such vehicles for emergency access.

E.A.R. Rich
 Earl R. Rich, Ph.D.







As the nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural and cultural resources. This includes fostering wise use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people. The department also promotes the goals of the Take Pride in America campaign by encouraging stewardship and citizen responsibility for the public lands and promoting citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

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