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5-Yr Report to Congress HQUSACE Guidance

General. Everyone on the team needs to fully understand while writing this report, that the 5-Year Report to Congress will likely be the first CERP report Congress sees since completion of the April 1999 Restudy (Yellow Book) and the Chief's Report which the Administration submitted on 1 July 1999. We need to be careful to avoid having this report read overly optimistic in tone...that things are progressing very well, while the Congress may have a different impression. We need to be truthful. There are budgetary impacts; we are experiencing schedule delays; CERP is being impacted by the "no new start" decisions of Congress and the Administration (prior to 2005) (e.g. no funding for ASR pilot projects); science is being criticized; we dealing with modeling issues; and there are unexpected cost increases. Congressional members and key Committee staff are getting negative feedback about the entire CERP program from a variety of stakeholders. They know PIRs are being developed; but they have yet to receive a PIR and the submission date for the "first CERP PIR", i.e. Indian River Lagoon -South is unknown at this time as the ASA(CW) has identified some significant issues that we have yet to work through.

In my view, this report is extremely important as the CERP program is at a critical juncture. Worldly conditions are different; budget climates are far tighter; and project priorities are being shifted both within the Administration and the Congress all of which are impacting CERP implementation. We do need to talk about all that we've done since 1999, yes, but keep in mind ...it's different from what we told Congress we would do in the Yellow Book - and its not restoration!!! It is far more important that the 5-Year Report focus more on the strategic direction of the program over the next five years to rebuild Congressional confidence or we may lose support and ultimately program funding. As mentioned in the first paragraph, Congress is concerned about the "no new starts" policy and that we haven't built a single project during the first 5-years of CERP, especially pilot projects, which are so critical. We've missed almost every milestone required in the Programmatic Regulations, which needs to thoroughly explained to address the questions...why? Congress is also unsure where the program is heading with the State's announcement on ACCELERATE and the competition for funding within the Congress.

Specific Issues. Congressional members and Committee staff are voicing negative opinions in several areas as discussed below:

a. Cost Growth - Cost growth is a huge issue. Mr. Woodley recently met with House T&I Committee / Water Resources and Environment Subcommittee staff about cost growth in the Corps Civil Works program. On CERP, it's not a good story. We are already approaching a billion dollar increase (in the first 3-4 projects; e.g. IRL-South; Picayune Strand; EAA - Phase I, C-11) over the Yellow Book cost. Remember there have been several GAO audit reports that went to Congress about the true cost of Everglades's restoration, uncertainty in water quality treatment, and real estate costs. There were subsequent congressional hearings on these GAO's reports; and we testified several occasions and indicated all too often that the \$7.8 billion cost estimate was a conservative cost estimate, with high contingencies, and which in all likelihood would decrease. It's in the hearing records. (Remember - Senator Inhofe's comments during authorization hearings for the CERP, where he said it is premature to authorize any projects in the CERP based on the plan submitted - he was the only Senator to oppose the CERP in the Senate vote and he is now the Chairman, Senate Environment and Public Works (EPW) who will receive PIRs for authorization. Also note that the Senate EPW Committee staff has been extremely quiet on the CERP program. They never been engaged in the CERP implementation; there have been no hearings; no request for briefings; and no general inquiries about CERP). This report will truly be the

first report they have seen in over 5 years and the cost growth will be an issue. Be careful of the audience!

b. Water Quality – Very sensitive area in the Congress (especially with Chairman Hobson). Whether we agree or not its an area that probably needs to be discussed in this report because it may impact CERP. Congress was extremely upset about State's amendment to Everglades Forever Act. Subsequent to the State's action, two Appropriation Subcommittees (incl. Chairman Hobson's Subcommittee) passed legislation calling for reports from both the Secretaries of the Army and DOI on whether the State's was meeting compliance requirements to Consent Decree. Army responded to Chairman Hobson by letter dated 1 March 2004, indicating that the Corps, DOI and EPA are addressing this matter in a joint report required by the Department of Interior Appropriations Act of 2004. To my knowledge this report has not been sent to Congress. If it has, no one on Chairman Hobson's staff is aware because I'm frequently asked where it is. In addition, be aware that Chairman Hobson has stated publicly that CERP funding will not used to help the State clean up its water quality problems.

c. MISP – From what they've heard Congress seems to like the project-banding proposal in the MISP. But...we must be absolutely sure that the projects/components we are recommending in Band 1 are indeed the right projects. The MISP should be included as an appendix to the report along with an explanation or the model used as to how the sequencing of projects was derived. This is very important. Very few at the Washington level, including the Congress, has an understanding of how the sequencing of projects has been determined.

The 5-Year Report should address many other questions like will the Band 1 projects function separately, and produce benefits commensurate with costs? This is another area getting a lot of attention. Also clearly identify the linkages between Band 1 projects and dependency on other CERP components? Committee staff is asking how can we recommend authorization of projects that require other unauthorized CERP components to produce benefits?

There's a lot of skepticism on ACCELERATE projects being in Band 1. They will also questions like - if ASR Pilot Projects are so critical to implementing ASR in CERP, why isn't the State building them? Congressional staff commented last week that ACCELERATE projects are for water supply and the Corps will be left to implement projects for the natural system – that's the perception in Congress that we need to correct. The Appropriations Subcommittee is also concerned that should the state ultimately be authorized credit for construction of ACCELERATE projects, combined with credit they will receive for real estate acquisition, the State's share could approach the 50 percent cost-share for CERP. What level of funding will the Administration propose for CERP? Is it still \$200 million per year? Congress doesn't see that happening! So, what CERP projects will we do and not do if CERP funding stays relatively flat (say at \$100 per year) and the Corps cost-shares the remaining costs for the Modified Water Deliveries project 50-50 with DOI?

d. CERP. I'm hearing statements like "CERP is dead." "What will be implemented is something smaller that compliments the State's ACCELERATE" Again, these are perception issues in the halls of Congress. A fundamental question being asked "Is the 1999 CERP still a good plan? (Remember...CERP was developed by a previous (Democratic) Administration – authorized in WRDA 2000 by an old Congress – and now being implemented by the current Administration in accordance with a defined set of procedures (i.e. Programmatic Regulations)). This is a difficult challenge partly the reason why it's been difficult producing the programmatic regulations; MISP; etc. Should we be looking at a new CERP without ASR? Another good question! I submit that this report should discuss SFWMD ASR contingency plan briefed by Henry Dean at the February 2005 Task Force meeting.

Congressional Committee staff was also aware of the problems (spring 2004) with the SFWMM update, which produced uncertainties with the CERP performance. They received a copy of the USFWS Planning Aid Letter identifying these problems and they will ask, “ how can we be developing the MISP and the interim goals and targets based on the old 1999 model.”

I will be prepared to discuss my views and thoughts at the next teleconference/VTC.