

106TH CONGRESS
2D SESSION

S. 2797

To authorize a comprehensive Everglades restoration plan.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2000

Mr. SMITH of New Hampshire (for himself, Mr. BAUCUS, Mr. VOINOVICH, Mr. GRAHAM, and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To authorize a comprehensive Everglades restoration plan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restoring the Ever-
5 glades, an American Legacy Act”.

6 **SEC. 2. COMPREHENSIVE EVERGLADES RESTORATION**
7 **PLAN.**

8 (a) DEFINITIONS.—In this section:

9 (1) CENTRAL AND SOUTHERN FLORIDA
10 PROJECT.—

1 (A) IN GENERAL.—The term “Central and
 2 Southern Florida Project” means the project
 3 for Central and Southern Florida authorized
 4 under the heading “CENTRAL AND SOUTHERN
 5 FLORIDA” in section 203 of the Flood Control
 6 Act of 1948 (62 Stat. 1176).

7 (B) INCLUSION.—The term “Central and
 8 Southern Florida Project” includes any modi-
 9 fication to the project authorized by this Act or
 10 any other provision of law.

11 (2) GOVERNOR.—The term “Governor” means
 12 the Governor of the State.

13 (3) NATURAL SYSTEM.—

14 (A) IN GENERAL.—The term “natural sys-
 15 tem” means all land and water managed by the
 16 Federal Government or the State within the
 17 South Florida ecosystem.

18 (B) INCLUSIONS.—The term “natural sys-
 19 tem” includes—

- 20 (i) water conservation areas;
- 21 (ii) sovereign submerged land;
- 22 (iii) Everglades National Park;
- 23 (iv) Biscayne National Park;
- 24 (v) Big Cypress National Preserve;

1 (vi) other Federal or State (including
2 a political subdivision of a State) land that
3 is designated and managed for conserva-
4 tion purposes; and

5 (vii) any tribal land that is designated
6 and managed for conservation purposes, as
7 approved by the tribe.

8 (4) PLAN.—The term “Plan” means the Com-
9 prehensive Everglades Restoration Plan contained in
10 the “Final Integrated Feasibility Report and Pro-
11 grammatic Environmental Impact Statement”, dated
12 April 1, 1999, as modified by this Act.

13 (5) SOUTH FLORIDA ECOSYSTEM.—

14 (A) IN GENERAL.—The term “South Flor-
15 ida ecosystem” means the area consisting of the
16 land and water within the boundary of the
17 South Florida Water Management District in
18 effect on July 1, 1999.

19 (B) INCLUSIONS.—The term “South Flor-
20 ida ecosystem” includes—

21 (i) the Everglades;

22 (ii) the Florida Keys; and

23 (iii) the contiguous near-shore coastal
24 water of South Florida.

1 (6) STATE.—The term “State” means the State
2 of Florida.

3 (b) COMPREHENSIVE EVERGLADES RESTORATION
4 PLAN.—

5 (1) APPROVAL.—

6 (A) IN GENERAL.—Except as modified by
7 this Act, the Plan is approved as a framework
8 for modifications and operational changes to
9 the Central and Southern Florida Project that
10 are needed to—

11 (i) restore, preserve and protect the
12 South Florida ecosystem;

13 (ii) provide for the protection of water
14 quality in, and the reduction of the loss of
15 fresh water from, the Everglades; and

16 (iii) provide for the water-related
17 needs of the region, including—

18 (I) flood control;

19 (II) the enhancement of water
20 supplies; and

21 (III) other objectives served by
22 the Central and Southern Florida
23 Project.

24 (B) INTEGRATION.—In carrying out the
25 Plan, the Secretary shall integrate the activities

1 described in subparagraph (A) with ongoing
2 Federal and State projects and activities in ac-
3 cordance with section 528(c) of the Water Re-
4 sources Development Act of 1996 (110 Stat.
5 3769).

6 (2) SPECIFIC AUTHORIZATIONS.—

7 (A) IN GENERAL.—

8 (i) PROJECTS.—The Secretary shall
9 carry out the projects included in the Plan
10 in accordance with subparagraphs (B),
11 (C), (D) and (E).

12 (ii) CONSIDERATIONS.—In carrying
13 out activities described in the Plan, the
14 Secretary shall—

15 (I) take into account the protec-
16 tion of water quality by considering
17 applicable State water quality stand-
18 ards; and

19 (II) include such features as the
20 Secretary determines are necessary to
21 ensure that all ground water and sur-
22 face water discharges from any
23 project feature authorized by this sub-
24 section will meet all applicable water

1 quality standards and applicable water
2 quality permitting requirements.

3 (iii) REVIEW AND COMMENT.—In de-
4 veloping the projects authorized under sub-
5 paragraph (B), the Secretary shall provide
6 for public review and comment in accord-
7 ance with applicable Federal law.

8 (B) PILOT PROJECTS.—The following pilot
9 projects are authorized for implementation,
10 after review and approval by the Secretary, sub-
11 ject to the conditions in subparagraph (D), at
12 a total cost of \$69,000,000, with an estimated
13 Federal cost of \$34,500,000 and an estimated
14 non-Federal cost of \$34,500,000:

15 (i) Caloosahatchee River (C-43)
16 Basin ASR, at a total cost of \$6,000,000,
17 with an estimated Federal cost of
18 \$3,000,000 and an estimated non-Federal
19 cost of \$3,000,000.

20 (ii) Lake Belt In-Ground Reservoir
21 Technology, at a total cost of \$23,000,000,
22 with an estimated Federal cost of
23 \$11,500,000 and an estimated non-Federal
24 cost of \$11,500,000.

1 (iii) L-31N Seepage Management, at
2 a total cost of \$10,000,000, with an esti-
3 mated Federal cost of \$5,000,000 and an
4 estimated non-Federal cost of \$5,000,000.

5 (iv) Wastewater Reuse Technology, at
6 a total cost of \$30,000,000, with an esti-
7 mated Federal cost of \$15,000,000 and an
8 estimated non-Federal cost of
9 \$15,000,000.

10 (C) INITIAL PROJECTS.—The following
11 projects are authorized for implementation,
12 after review and approval by the Secretary, sub-
13 ject to the conditions stated in subparagraph
14 (D), at a total cost of \$1,100,918,000, with an
15 estimated Federal cost of \$550,459,000 and an
16 estimated non-Federal cost of \$550,459,000:

17 (i) C-44 Basin Storage Reservoir, at
18 a total cost of \$112,562,000, with an esti-
19 mated Federal cost of \$56,281,000 and an
20 estimated non-Federal cost of
21 \$56,281,000.

22 (ii) Everglades Agricultural Area
23 Storage Reservoirs—Phase I, at a total
24 cost of \$233,408,000, with an estimated

1 Federal cost of \$116,704,000 and an esti-
2 mated non-Federal cost of \$116,704,000.

3 (iii) Site 1 Impoundment, at a total
4 cost of \$38,535,000, with an estimated
5 Federal cost of \$19,267,500 and an esti-
6 mated non-Federal cost of \$19,267,500.

7 (iv) Water Conservation Areas 3A/3B
8 Levee Seepage Management, at a total cost
9 of \$100,335,000, with an estimated Fed-
10 eral cost of \$50,167,500 and an estimated
11 non-Federal cost of \$50,167,500.

12 (v) C-11 Impoundment and
13 Stormwater Treatment Area, at a total
14 cost of \$124,837,000, with an estimated
15 Federal cost of \$62,418,500 and an esti-
16 mated non-Federal cost of \$62,418,500.

17 (vi) C-9 Impoundment and
18 Stormwater Treatment Area, at a total
19 cost of \$89,146,000, with an estimated
20 Federal cost of \$44,573,000 and an esti-
21 mated non-Federal cost of \$44,573,000.

22 (vii) Taylor Creek/Nubbin Slough
23 Storage and Treatment Area, at a total
24 cost of \$104,027,000, with an estimated

1 Federal cost of \$52,013,500 and an esti-
2 mated non-Federal cost of \$52,013,500.

3 (viii) Raise and Bridge East Portion
4 of Tamiami Trail and Fill Miami Canal
5 within Water Conservation Area 3, at a
6 total cost of \$26,946,000, with an esti-
7 mated Federal cost of \$13,473,000 and an
8 estimated non-Federal cost of
9 \$13,473,000.

10 (ix) North New River Improvements,
11 at a total cost of \$77,087,000, with an es-
12 timated Federal cost of \$38,543,500 and
13 an estimated non-Federal cost of
14 \$38,543,500.

15 (x) C-111 Spreader Canal, at a total
16 cost of \$94,035,000, with an estimated
17 Federal cost of \$47,017,500 and an esti-
18 mated non-Federal cost of \$47,017,500.

19 (xi) Adaptive Assessment and Moni-
20 toring Program, at a total cost of
21 \$100,000,000, with an estimated Federal
22 cost of \$50,000,000 and an estimated non-
23 Federal cost of \$50,000,000.

24 (D) CONDITIONS.—

1 (i) PROJECT IMPLEMENTATION RE-
2 PORTS.—Before implementation of a
3 project described in any of clauses (i)
4 through (x) of subparagraph (C), the Sec-
5 retary shall review and approve for the
6 project a project implementation report
7 prepared in accordance with subsections (f)
8 and (h).

9 (ii) SUBMISSION OF REPORT.—The
10 Secretary shall submit to the Committee
11 on Transportation and Infrastructure of
12 the House of Representatives and the
13 Committee on Environment and Public
14 Works of the Senate the project implemen-
15 tation report required by subsections (f)
16 and (h) for each project under this para-
17 graph (including all relevant data and in-
18 formation on all costs).

19 (iii) FUNDING CONTINGENT ON AP-
20 PROVAL.—No appropriation shall be made
21 to construct any project under this para-
22 graph if the project implementation report
23 for the project has not been approved by
24 resolutions adopted by the Committee on
25 Transportation and Infrastructure of the

1 House of Representatives and the Com-
2 mittee on Environment and Public Works
3 of the Senate.

4 (iv) MODIFIED WATER DELIVERY.—
5 No appropriation shall be made to con-
6 struct the Water Conservation Area 3
7 Decompartmentalization and Sheetflow
8 Enhancement Project or the Central
9 Lakebelt Storage Project until the comple-
10 tion of the project to improve water deliv-
11 eries to Everglades National Park author-
12 ized by section 104 of the Everglades Na-
13 tional Park Protection and Expansion Act
14 of 1989 (16 U.S.C 410r-8).

15 (E) MAXIMUM COST OF PROJECTS.—Sec-
16 tion 902 of the Water Resources Development
17 Act of 1986 (33 U.S.C. 2280) shall apply to
18 each project feature authorized under this sub-
19 section.

20 (c) ADDITIONAL PROGRAM AUTHORITY.—

21 (1) IN GENERAL.—To expedite implementation
22 of the Plan, the Secretary may implement modifica-
23 tions to the Central and Southern Florida Project
24 that—

25 (A) are described in the Plan; and

1 (B) will produce a substantial benefit to
2 the restoration, preservation and protection of
3 the South Florida ecosystem.

4 (2) PROJECT IMPLEMENTATION REPORTS.—Be-
5 fore implementation of any project feature author-
6 ized under this subsection, the Secretary shall review
7 and approve for the project feature a project imple-
8 mentation report prepared in accordance with sub-
9 sections (f) and (h).

10 (3) FUNDING.—

11 (A) INDIVIDUAL PROJECT FUNDING.—

12 (i) FEDERAL COST.—The total Fed-
13 eral cost of each project carried out under
14 this subsection shall not exceed
15 \$12,500,000.

16 (ii) OVERALL COST.—The total cost of
17 each project carried out under this sub-
18 section shall not exceed \$25,000,000.

19 (B) AGGREGATE FEDERAL COST.—The
20 total Federal cost of all projects carried out
21 under this subsection shall not exceed
22 \$206,000,000

23 (d) AUTHORIZATION OF FUTURE PROJECTS.—

24 (1) IN GENERAL.—Except for a project author-
25 ized by subsection (b) or (c), any project included in

1 the Plan shall require a specific authorization by
2 Congress.

3 (2) SUBMISSION OF REPORT.—Before seeking
4 congressional authorization for a project under para-
5 graph (1), the Secretary shall submit to Congress—

6 (A) a description of the project; and

7 (B) a project implementation report for
8 the project prepared in accordance with sub-
9 sections (f) and (h).

10 (e) COST SHARING.—

11 (1) FEDERAL SHARE.—The Federal share of
12 the cost of carrying out a project authorized by sub-
13 section (b), (c), or (d) shall be 50 percent.

14 (2) NON-FEDERAL RESPONSIBILITIES.—The
15 non-Federal sponsor with respect to a project de-
16 scribed in subsection (b), (c), or (d), shall be—

17 (A) responsible for all land, easements,
18 rights-of-way, and relocations necessary to im-
19 plement the Plan; and

20 (B) afforded credit toward the non-Federal
21 share of the cost of carrying out the project in
22 accordance with paragraph (5)(A).

23 (3) FEDERAL ASSISTANCE.—

24 (A) IN GENERAL.—The non-Federal spon-
25 sor with respect to a project authorized by sub-

1 section (b), (c), or (d) may use Federal funds
2 for the purchase of any land, easement, rights-
3 of-way, or relocation that is necessary to carry
4 out the project if any funds so used are credited
5 toward the Federal share of the cost of the
6 project.

7 (B) AGRICULTURE FUNDS.—Funds pro-
8 vided to the non-Federal sponsor under any
9 programs such as the Conservation Restoration
10 and Enhancement Program (CREP) and the
11 Wetlands Reserve Program (WRP) for projects
12 in the Plan shall be credited toward the non-
13 Federal share of the cost of the Plan if the Sec-
14 retary of Agriculture certifies that the funds
15 provided may be used for that purpose.

16 (4) OPERATION AND MAINTENANCE.—Notwith-
17 standing section 528(e)(3) of the Water Resources
18 Development Act of 1996 (110 Stat. 3770), the non-
19 Federal sponsor shall be responsible for 50 percent
20 of the cost of operation, maintenance, repair, re-
21 placement, and rehabilitation activities authorized
22 under this section.

23 (5) CREDIT.—

24 (A) IN GENERAL.—Notwithstanding sec-
25 tion 528(e)(4) of the Water Resources Develop-

1 ment Act of 1996 (110 Stat. 3770), and re-
2 gardless of the date of acquisition, the value of
3 lands or interests in lands and incidental costs
4 for land acquired by a non-Federal sponsor in
5 accordance with a project implementation re-
6 port for any project included in the Plan and
7 authorized by Congress shall be—

8 (i) included in the total cost of the
9 project; and

10 (ii) credited toward the non-Federal
11 share of the cost of the project.

12 (B) WORK.—The Secretary may provide
13 credit, including in-kind credit, toward the non-
14 Federal share for the reasonable cost of any
15 work performed in connection with a study,
16 preconstruction engineering and design, or con-
17 struction that is necessary for the implementa-
18 tion of the Plan, if—

19 (i)(I) the credit is provided for work
20 completed during the period of design, as
21 defined in a design agreement between the
22 Secretary and the non-Federal sponsor; or

23 (II) the credit is provided for work
24 completed during the period of construc-
25 tion, as defined in a project cooperation

1 agreement for an authorized project be-
2 tween the Secretary and the non-Federal
3 sponsor;

4 (ii) the design agreement or the
5 project cooperation agreement prescribes
6 the terms and conditions of the credit; and

7 (iii) the Secretary determines that the
8 work performed by the non-Federal spon-
9 sor is integral to the project.

10 (C) TREATMENT OF CREDIT BETWEEN
11 PROJECTS.—Any credit provided under this
12 paragraph may be carried over between author-
13 ized projects in accordance with subparagraph
14 (D).

15 (D) PERIODIC MONITORING.—

16 (i) IN GENERAL.—To ensure that the
17 contributions of the non-Federal sponsor
18 equal 50 percent proportionate share for
19 projects in the Plan, during each 5-year
20 period, beginning with commencement of
21 design of the Plan, the Secretary shall, for
22 each project—

23 (I) monitor the non-Federal pro-
24 vision of cash, in-kind services, and
25 land; and

1 (II) manage, to the maximum ex-
2 tent practicable, the requirement of
3 the non-Federal sponsor to provide
4 cash, in-kind services, and land.

5 (ii) OTHER MONITORING.—The Sec-
6 retary shall conduct monitoring under
7 clause (i) separately for—

8 (I) the preconstruction engineer-
9 ing and design phase; and

10 (II) the construction phase.

11 (E) AUDITS.—Credit for land (including
12 land value and incidental costs) or work pro-
13 vided under this subsection shall be subject to
14 audit by the Secretary.

15 (f) EVALUATION OF PROJECTS.—

16 (1) IN GENERAL.—Before implementation of a
17 project authorized by subsection (c) or (d) or any of
18 clauses (i) through (x) of subsection (b)(2)(C), the
19 Secretary, in cooperation with the non-Federal spon-
20 sor, shall, after notice and opportunity for public
21 comment and in accordance with subsection (h),
22 complete a project implementation report for the
23 project.

24 (2) PROJECT JUSTIFICATION.—

1 (A) IN GENERAL.—Notwithstanding sec-
 2 tion 209 of the Flood Control Act of 1970 (42
 3 U.S.C. 1962–2) or any other provision of law,
 4 in carrying out any activity authorized under
 5 this section or any other provision of law to re-
 6 store, preserve, or protect the South Florida
 7 ecosystem, the Secretary may determine that—

8 (i) the activity is justified by the envi-
 9 ronmental benefits derived by the South
 10 Florida ecosystem; and

11 (ii) no further economic justification
 12 for the activity is required, if the Secretary
 13 determines that the activity is cost-effec-
 14 tive.

15 (B) APPLICABILITY.—Subparagraph (A)
 16 shall not apply to any separable element in-
 17 tended to produce benefits that are predomi-
 18 nantly unrelated to the restoration, preserva-
 19 tion, and protection of the natural system.

20 (g) EXCLUSIONS AND LIMITATIONS.—The following
 21 Plan components are not approved for implementation:

22 (1) WATER INCLUDED IN THE PLAN.—

23 (A) IN GENERAL.—Any project that is de-
 24 signed to implement the capture and use of the
 25 approximately 245,000 acre-feet of water de-

1 scribed in section 7.7.2 of the Plan shall not be
2 implemented until such time as—

3 (i) the project-specific feasibility study
4 described in subparagraph (B) on the need
5 for and physical delivery of the approxi-
6 mately 245,000 acre-feet of water, con-
7 ducted by the Secretary, in cooperation
8 with the non-Federal sponsor, is com-
9 pleted;

10 (ii) the project is favorably rec-
11 ommended in a final report of the Chief of
12 Engineers; and

13 (iii) the project is authorized by Act
14 of Congress.

15 (B) PROJECT-SPECIFIC FEASIBILITY
16 STUDY.—The project-specific feasibility study
17 referred to in subparagraph (A) shall include—

18 (i) a comprehensive analysis of the
19 structural facilities proposed to deliver the
20 approximately 245,000 acre-feet of water
21 to the natural system;

22 (ii) an assessment of the requirements
23 to divert and treat the water;

24 (iii) an assessment of delivery alter-
25 natives;

1 (iv) an assessment of the feasibility of
2 delivering the water downstream while
3 maintaining current levels of flood protec-
4 tion to affected property; and

5 (v) any other assessments that are de-
6 termined by the Secretary to be necessary
7 to complete the study.

8 (2) WASTEWATER TREATMENT.—

9 (A) IN GENERAL.—On completion and
10 evaluation of the wastewater treatment pilot
11 project described in subsection (b)(2)(B)(iv),
12 the Secretary, in an appropriately timed 5-year
13 report, shall describe the results of the evalua-
14 tion of advanced wastewater treatment in meet-
15 ing, in a cost effective manner, the require-
16 ments of restoration of the natural system.

17 (B) SUBMISSION.—The Secretary shall
18 submit to Congress the report described in sub-
19 paragraph (A) before congressional authoriza-
20 tion for advanced wastewater treatment is
21 sought.

22 (3) PROJECTS APPROVED WITH LIMITATIONS.—

23 The following projects in the Plan are approved for
24 implementation with limitations:

1 (A) LOXAHATCHEE NATIONAL WILDLIFE
2 REFUGE.—The Federal share for land acquisi-
3 tion in the project to enhance existing wetland
4 systems along the Loxahatchee National Wild-
5 life Refuge, including the Stazzulla tract,
6 should be funded through the budget of the De-
7 partment of the Interior.

8 (B) SOUTHERN CORKSCREW REGIONAL
9 ECOSYSTEM.—The Southern Corkscrew regional
10 ecosystem watershed addition should be accom-
11 plished outside the scope of the Plan.

12 (h) ASSURANCE OF PROJECT BENEFITS.—

13 (1) IN GENERAL.—The overarching objective of
14 the Plan is the restoration, preservation, and protec-
15 tion of the South Florida Ecosystem while providing
16 for other water-related needs of the region, including
17 water supply and flood protection. The Plan shall be
18 implemented to ensure the protection of water qual-
19 ity in, the reduction of the loss of fresh water from,
20 the improvement of the environment of the South
21 Florida Ecosystem and to achieve and maintain the
22 benefits to the natural system and human environ-
23 ment described in the Plan, and required pursuant
24 to this Act, for as long as the project is authorized.

25 (2) AGREEMENT.—

1 (A) IN GENERAL.—No appropriation shall
2 be made for the construction of a project con-
3 tained in the Plan until the President and the
4 Governor enter into a binding agreement under
5 which the State, shall ensure, by regulation or
6 other appropriate means, that water made
7 available under the Plan for the restoration of
8 the natural system is available as specified in
9 the Plan.

10 (B) ENFORCEMENT.—

11 (i) IN GENERAL.—Any person or enti-
12 ty that is aggrieved by a failure of the
13 President or the Governor to comply with
14 any provision of the agreement entered
15 into under subparagraph (A) may bring a
16 civil action in United States district court
17 for an injunction directing the President or
18 the Governor, as the case may be, to com-
19 ply with the agreement, or for other appro-
20 priate relief.

21 (ii) LIMITATIONS ON COMMENCEMENT
22 OF CIVIL ACTION.—No civil action may be
23 commenced under clause (i)—

24 (I) before the date that is 60
25 days after the Secretary receives writ-

1 ten notice of a failure to comply with
2 the agreement; or

3 (II) if the United States has
4 commenced and is diligently pros-
5 ecuting an action in a court of the
6 United States or a State to redress a
7 failure to comply with the agreement.

8 (3) PROGRAMMATIC REGULATIONS.—

9 (A) ISSUANCE.—Not later than 2 years
10 after the date of enactment of this Act, the Sec-
11 retary shall, after notice and opportunity for
12 public comment—

13 (i) with the concurrence of—

14 (I) the Governor; and

15 (II) the Secretary of the Interior;

16 and

17 (ii) in consultation with—

18 (I) the Seminole Tribe of Flor-
19 ida;

20 (II) the Miccosukee Tribe of In-
21 dians of Florida;

22 (III) the Administrator of the
23 Environmental Protection Agency;

24 (IV) the Secretary of Commerce;

25 and

1 (V) other Federal, State, and
2 local agencies;
3 promulgate programmatic regulations to ensure
4 that the goals and purposes of the Plan are
5 achieved.

6 (B) CONTENT OF REGULATIONS.—Pro-
7 grammatic regulations promulgated under this
8 paragraph shall establish a process to—

9 (i) provide guidance for the develop-
10 ment of project implementation reports,
11 project cooperation agreements, and oper-
12 ating manuals that ensure that the goals
13 and objectives of the Plan are achieved;

14 (ii) ensure that new information re-
15 sulting from changed or unforeseen cir-
16 cumstances, new scientific or technical in-
17 formation or information that is developed
18 through the principles of adaptive manage-
19 ment contained in the Plan, or future au-
20 thorized changes to the Plan are integrated
21 into the implementation of the Plan;

22 (iii) ensure the protection of the nat-
23 ural system consistent with the goals and
24 purposes of the Plan; and

1 (iv) include a mechanism for dispute
2 resolution to resolve any conflicts between
3 the Secretary and the non-Federal sponsor.
4

5 (C) SCHEDULE AND TRANSITION RULE.—

6 (i) IN GENERAL.—All project imple-
7 mentation reports approved before the date
8 of promulgation of the programmatic regu-
9 lations shall be consistent with the Plan.

10 (ii) PREAMBLE.—The preamble of the
11 programmatic regulations shall include a
12 statement concerning the consistency with
13 the programmatic regulations of any
14 project implementation reports that were
15 approved before the date of promulgation
16 of the regulations.

17 (D) REVIEW OF PROGRAMMATIC REGULA-
18 TIONS.—Whenever necessary to attain Plan
19 goals and purposes, but not less often than
20 every 5 years, the Secretary, in accordance with
21 subparagraph (A), shall review the pro-
22 grammatic regulations promulgated under this
23 paragraph.

24 (4) PROJECT-SPECIFIC ASSURANCES.—

1 (A) PROJECT IMPLEMENTATION RE-
2 PORTS.—

3 (i) IN GENERAL.—The Secretary and
4 the non-Federal sponsor shall develop
5 project implementation reports in accord-
6 ance with section 10.3.1 of the Plan.

7 (ii) COORDINATION.—In developing a
8 project implementation report, the Sec-
9 retary and the non-Federal sponsor shall
10 coordinate with appropriate Federal, State,
11 tribal, and local governments.

12 (iii) REQUIREMENTS.—A project im-
13 plementation report shall—

14 (I) be consistent with the Plan
15 and the programmatic regulations
16 promulgated under paragraph (3);

17 (II) describe how each of the re-
18 quirements stated in paragraph
19 (3)(B) is satisfied;

20 (III) comply with the National
21 Environmental Policy Act of 1969 (42
22 U.S.C. 4321 et seq.);

23 (IV) identify the appropriate
24 quantity, timing, and distribution of

1 water dedicated and managed for the
2 natural system;

3 (V) identify the amount of water
4 to be reserved or allocated for the nat-
5 ural system necessary to implement,
6 under State law, subclauses (IV) and
7 (VI);

8 (VI) comply with applicable
9 water quality standards and applicable
10 water quality permitting requirements
11 under subsection (b)(2)(A)(ii);

12 (VII) be based on the best avail-
13 able science; and

14 (VIII) include an analysis con-
15 cerning the cost-effectiveness and en-
16 gineering feasibility of the project.

17 (B) PROJECT COOPERATION AGREE-
18 MENTS.—

19 (i) IN GENERAL.—The Secretary and
20 the non-Federal sponsor shall execute
21 project cooperation agreements in accord-
22 ance with section 10 of the Plan.

23 (ii) CONDITION.—The Secretary shall
24 not execute a project cooperation agree-
25 ment until any reservation or allocation of

1 water for the natural system identified in
2 the project implementation report is exe-
3 cuted under State law.

4 (C) OPERATING MANUALS.—

5 (i) IN GENERAL.—The Secretary and
6 the non-Federal sponsor shall develop and
7 issue, for each project or group of projects,
8 an operating manual that is consistent
9 with the water reservation or allocation for
10 the natural system described in the project
11 implementation report and the project co-
12 operation agreement for the project or
13 group of projects.

14 (ii) MODIFICATIONS.—Any significant
15 modification by the Secretary and the non-
16 Federal sponsor to an operating manual
17 after the operating manual is issued shall
18 only be carried out subject to notice and
19 opportunity for public comment.

20 (5) SAVINGS CLAUSE.—

21 (A) EXISTING WATER USERS.—The Sec-
22 retary shall ensure that the implementation of
23 the Plan, including physical or operational
24 modifications to the Central and Southern Flor-
25 ida Project, does not cause significant adverse

1 impact on existing legal water users,
2 including—

3 (i) water legally allocated or provided
4 through entitlements to the Seminole Tribe
5 of Florida under section 7 of the Seminole
6 Indian Land Claims Settlement Act of
7 1987 (25 U.S.C. 1772e);

8 (ii) the Miccosukee Tribe of Indians
9 of Florida;

10 (iii) annual water deliveries to Ever-
11 glades National Park;

12 (iv) water for the preservation of fish
13 and wildlife in the natural system; and

14 (v) any other legal user, as provided
15 under Federal or State law in existence on
16 the date of enactment of this Act.

17 (B) NO ELIMINATION.—Until a new source
18 of water supply of comparable quantity and
19 quality is available to replace the water to be
20 lost as a result of implementation of the Plan,
21 the Secretary shall not eliminate existing legal
22 sources of water, including those for—

23 (i) an agricultural or urban water
24 supply;

1 (ii) allocation or entitlement to the
2 Seminole Indian Tribe of Florida under
3 section 7 of the Seminole Indian Land
4 Claims Settlement Act of 1987 (25 U.S.C.
5 1772e);

6 (iii) the Miccosukee Tribe of Indians
7 of Florida;

8 (iv) Everglades National Park; or

9 (v) the preservation of fish and wild-
10 life.

11 (C) MAINTENANCE OF FLOOD PROTEC-
12 TION.—The Secretary shall maintain authorized
13 levels of flood protection in existence on the
14 date of enactment of this Act, in accordance
15 with current law.

16 (D) NO EFFECT ON STATE LAW.—Nothing
17 in this Act prevents the State from allocating or
18 reserving water, as provided under State law, to
19 the extent consistent with this Act.

20 (E) NO EFFECT ON TRIBAL COMPACT.—
21 Nothing in this Act amends, alters, prevents, or
22 otherwise abrogates rights of the Seminole In-
23 dian Tribe of Florida under the compact among
24 the Seminole Tribe of Florida, the State, and
25 the South Florida Water Management District,

1 defining the scope and use of water rights of
2 the Seminole Tribe of Florida, as codified by
3 section 7 of the Seminole Indian Land Claims
4 Settlement Act of 1987 (25 U.S.C. 1772e).

5 (i) INDEPENDENT SCIENTIFIC REVIEW.—

6 (1) IN GENERAL.—The Secretary, the Secretary
7 of the Interior, and the State, in consultation with
8 the South Florida Ecosystem Restoration Task
9 Force, shall establish an independent scientific re-
10 view panel convened by a body, such as the National
11 Academy of Sciences, to review the Plan’s progress
12 toward achieving the natural system restoration
13 goals of the Plan.

14 (2) REPORT.—The panel described in para-
15 graph (1) shall produce a biennial report to Con-
16 gress, the Secretary, the Secretary of the Interior,
17 and the State of Florida that includes an assessment
18 of ecological indicators and other measures of
19 progress in restoring the ecology of the natural sys-
20 tem, based on the Plan.

21 (j) OUTREACH AND ASSISTANCE.—

22 (1) SMALL BUSINESS CONCERNS OWNED AND
23 OPERATED BY SOCIALLY AND ECONOMICALLY DIS-
24 ADVANTAGED INDIVIDUALS.—In executing the Plan,
25 the Secretary shall ensure that small business con-

1 cerns owned and controlled by socially and economi-
2 cally disadvantaged individuals are provided oppor-
3 tunities to participate under section 15(g) of the
4 Small Business Act (15 U.S.C. 644(g)).

5 (2) COMMUNITY OUTREACH AND EDUCATION.—

6 (A) IN GENERAL.—The Secretary shall en-
7 sure that impacts on socially and economically
8 disadvantaged individuals, including individuals
9 with limited English proficiency, and commu-
10 nities are considered during implementation of
11 the Plan, and that such individuals have oppor-
12 tunities to review and comment on its imple-
13 mentation.

14 (B) PROVISION OF OPPORTUNITIES.—The
15 Secretary shall ensure, to the maximum extent
16 practicable, that public outreach and edu-
17 cational opportunities are provided to the indi-
18 viduals of South Florida, including individuals
19 with limited English proficiency, and in par-
20 ticular for socially and economically disadvan-
21 taged communities.

22 (k) REPORT TO CONGRESS.—Beginning on October
23 1, 2005, and periodically thereafter until October 1, 2036,
24 the Secretary and the Secretary of the Interior, in con-
25 sultation with the Environmental Protection Agency, the

1 Department of Commerce, and the State of Florida, shall
2 jointly submit to Congress a report on the implementation
3 of the Plan. Such reports shall be completed not less often
4 than every 5 years. Such reports shall include a descrip-
5 tion of planning, design, and construction work completed,
6 the amount of funds expended during the period covered
7 by the report (including a detailed analysis of the funds
8 expended for adaptive assessment under subsection
9 (b)(2)(C)(xi)), and the work anticipated over the next 5-
10 year period. In addition, each report shall include—

11 (1) the determination of each Secretary, and
12 the Administrator of the Environmental Protection
13 Agency, concerning the benefits to the natural sys-
14 tem and the human environment achieved as of the
15 date of the report and whether the completed
16 projects of the Plan are being operated in a manner
17 that is consistent with the requirements of sub-
18 section (h); and

19 (2) a review of the activities performed by the
20 Secretary under subsection (j) as they relate to so-
21 cially and economically disadvantaged individuals
22 and individuals with limited English proficiency.

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