

**UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE**

RECORD OF DECISION

**ADDITION GENERAL MANAGEMENT PLAN/WILDERNESS STUDY/OFF-ROAD VEHICLE
MANAGEMENT PLAN/
ENVIRONMENTAL IMPACT STATEMENT**

Big Cypress National Preserve

Florida

The Department of the Interior, National Park Service (NPS), has prepared this "Record of Decision" (ROD) on the *Final General Management Plan/Wilderness Study/Off-road Vehicle Management Plan/Environmental Impact Statement* (FGMP/EIS) for the Big Cypress National Preserve ("Preserve") Addition ("Addition"). This ROD includes a description of the background of the project, a statement of the decision made, a synopsis of other alternatives considered, the basis for the decision, findings on impairment of Preserve resources and values, a description of the environmentally preferable alternative, a listing of measures to minimize environmental harm, and an overview of public and agency involvement in the decision-making process. Included as attachments are a map of the selected alternative, the U.S. Fish and Wildlife Service's Biological Opinion dated November 17, 2010, a determination of impairment for the preferred alternative, and a Floodplains Statement of Findings.

BACKGROUND OF THE PROJECT

Big Cypress National Preserve was authorized by Congress on October 11, 1974 (Public Law 93-440), to include not more than 570,000 acres of land and water. That law was amended on April 29, 1988, when Congress passed Public Law 100-301, the Big Cypress National Preserve Addition Act or "Addition Act," to expand the Preserve by 147,000 acres. This expansion area is referred to as the Addition.

In 1991 the NPS finalized a *General Management Plan* for the original Preserve which did not include the Addition. The NPS began administration of the Addition in 1996. No comprehensive planning effort has been conducted for the Addition.

The purpose of the general management plan is to provide a comprehensive direction for resource preservation and visitor use and a basic foundation for decision-making for the Addition for the next 15 to 20 years. The plan prescribes the resource conditions and visitor experiences that are to be achieved and maintained in the Addition over time. The clarification of what must be achieved

according to law and policy is based on a review of the Addition's and the Preserve's purpose, significance, and special mandates.

DECISION (SELECTED ACTION)

DESCRIPTION OF THE SELECTED ACTION

The selected action, labeled as the "preferred alternative" in the FGMP/EIS, will provide diverse frontcountry and backcountry recreational opportunities, enhance day use and interpretive opportunities along road corridors, and enhance recreational opportunities with new facilities and services. The selected action will provide a substantial amount of off-road vehicle (ORV) access and riding opportunities, provide a moderate amount of proposed wilderness, provide nonmotorized trail opportunities and new camping opportunities, and develop a partnership approach to visitor orientation. Implementation of the ORV trail system will be phased to ensure protection of sensitive species and the environment. New visitor and operations facilities along the Interstate 75 (I-75) corridor will also be provided.

The NPS recognizes the state of Florida as a critical partner and will continue that partnership through close and ongoing dialogue. The Preserve will work with the Florida Fish and Wildlife Conservation Commission on issues relating to hunting and hunting access, including definition of hunting seasons and development of hunting regulations that are consistent with both agencies' policies and goals for the Addition.

The selected action incorporates four management zones that will be used to ensure resource protection while providing a diversity of access types in the Addition. Information on the resource conditions, visitor experience, and appropriate activities and facilities for each zone is described in the FGMP/EIS.

Using adaptive management principles, the NPS will monitor use patterns, consider public and stakeholder views, and make appropriate management adjustments within the framework of the FGMP/EIS or through future public planning efforts.

Oil and gas exploration in the Addition is currently managed in accordance with the 'Agreement among the United States of America, Collier Enterprises, and Barron Collier Company' (Addition Lands Agreement) dated May 1988. **This agreement provides that oil and gas operations for Collier interests shall be conducted in accordance with stipulations specific to the agreement until regulations are**

promulgated pursuant to the Big Cypress National Preserve Addition Act. Nothing in the selected action will affect the existing legal rights of mineral owners or change the approved plans and practices of operators.

Specific management actions that the NPS will take in the next 20 years under the selected action are described in the following paragraphs.

Motorized Recreational Opportunities – Trails and Permits

Motorized recreational opportunities, including ORV use and motorized boating, will be phased in over time. Approximately 130 miles of primary trails, the principal ORV routes, will be designated as part of the ORV trail system (see attachment 1). Secondary trails, which are short trails that branch off primary trails to specific destinations, will be allowed only within the backcountry recreation management zone. Access points and facilities to support motorized use are described in the "Facilities" section, including a potential connection to existing ORV trails in the Bear Island Management Unit. Future connections to existing ORV trails in the original Preserve may require additional environmental compliance.

All ORVs used for recreation will be required to have a permit. A maximum of 650 ORV permits will be issued annually for the Addition. This number of ORV permits is based on the ratio of available annual permits to ORV primary trail mileage in the original Preserve.

However, under the selected action, the extent of trails and the number of permits available to the public will be accomplished in phases. The number of initial permits available will be proportionate to the initial extent of the trail system. For example, using a factor of five permits per mile of trail, if 20 miles of trail are opened, then 100 permits will be issued. The NPS will determine the initial extent of the trail system based on field conditions, proximity to access points, and levels of trail stabilization needed. Monitoring of the impacts will take place, and if impacts are at or below acceptable limits, more trails will be designated and more permits will be allowed.

Nonmotorized Recreational Opportunities

New access points will be established for hiking, bicycling, horseback riding, and hunting. Access points will be developed at mile markers 51 and 63 (old mile markers 49 and 38), as called for in the *I-75 Recreational Access Plan*. These points will provide access for both motorized and nonmotorized uses. Hiking, bicycling, and horseback riding will also be allowed on approximately 130 miles of ORV trails in the Addition. Some new hiking trails will be developed at frontcountry locations. New paddling trails will be developed in the

tidal areas south of U.S. 41 in the western portion of the Addition. Specific access points and facilities to support nonmotorized uses are described in the "Facilities" section.

Conceptual hiking trails will be included as part of this alternative – one completing a north-south connection and one completing an east-west connection through the Addition.

The NPS will work cooperatively with the Florida Trail Association and the U.S. Forest Service to determine the appropriate access points and routing of the Florida National Scenic Trail to minimize conflicts between motorized and nonmotorized users. The trail will be formally designated.

Visitor Orientation and Education

A new visitor contact station and some outdoor orientation and interpretive panels will be developed along I-75 under this alternative, as described in the "Facilities" section.

Wilderness

Public Law (P.L.) 93-440 as amended by P.L. 100-301 required a review of Preserve lands in accordance with the Wilderness Act for possible designation as wilderness. NPS *Management Policies 2006* describe a two-step wilderness review process consisting of a wilderness eligibility assessment and a wilderness study. The wilderness eligibility assessment (formerly wilderness suitability assessment) is a brief memorandum from the regional director to the Director that makes a managerial determination as to the eligibility of park lands for wilderness designation. Wilderness eligible lands are then studied to develop a recommendation to Congress for wilderness designation. Although a wilderness study for the original Preserve was completed in 1979, the Addition had never been assessed or studied since its authorization by Congress in 1988.

Preparation of the GMP for the Addition began in 1999. However, although preliminary efforts to complete a wilderness eligibility assessment for the Addition took place in 2002 and 2003, these were never finalized. Therefore, in 2006 the NPS expanded the scope of the GMP to include a wilderness study as well as an ORV management plan. The decision to expand the scope of the GMP was based on 1) the requirements of the Addition enabling legislation to complete a wilderness review within five years of enactment, 2) the fact that the Record of Decision for the Preserve's 2000 *Final Recreational Off-road Vehicle Management Plan/Supplemental Environmental Impact Statement* stated that the Addition would be closed to recreational ORV use until a wilderness study and GMP were completed, 3) time and cost savings, and 4) comments received from over 800 interested individuals, organizations, and agencies. A Notice of Intent to expand the scope of

the GMP was published in the *Federal Register* on April 25, 2006, 71 FR 23945, and a newsletter published in May 2006 announced the scope expansion along with dates and locations for public meetings.

On July 11-12, 2006, the NPS began its initial wilderness review by convening a workshop to evaluate the wilderness characteristics and values of the Addition. This workshop, which constituted the NPS' first official attempt to identify wilderness eligible lands in the Addition, was attended by representatives from the Preserve, the NPS Denver Service Center (DSC), the NPS Southeast Regional Office (SERO) Wilderness Coordinator, and the NPS Chief of Wilderness Stewardship and Recreation Management. Using geographic information systems, maps, aerial photographs, and personal knowledge, as well as field checking in some cases, participants identified eligible and ineligible lands. Areas that appeared to meet all wilderness criteria were included as eligible for wilderness designation; all other lands were deemed not eligible. Based on this evaluation, the NPS prepared an initial wilderness eligibility assessment that determined approximately 111,601 acres to be eligible for wilderness designation. A map depicting the eligible wilderness areas was published in a newsletter in April 2007. Based on the results of the assessment, the NPS prepared a draft wilderness study incorporating wilderness into preliminary alternatives B, C, D, E, and F. The preliminary alternatives maps were published in the April 2007 newsletter, which also announced a series of public meetings. The preliminary alternatives were modified based on comments received during the spring of 2007, and the draft alternatives (including wilderness recommendations) were included in the *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* (DGMP/EIS) released on July 10, 2009. Alternatives B, F, and the preferred alternative of the DGMP/EIS included areas proposed for wilderness designation. The acreages of proposed wilderness for these three draft alternatives were 48,919, 111,601, and 85,862, respectively. The findings of the wilderness eligibility assessment were included as Appendix B to the DGMP/EIS.

The NPS received public comments on the DGMP/EIS, conducted four public meetings/wilderness hearings through September 30, 2009, and published a comment summary on the NPS Planning, Environment, and Public Comment website in December 2009. Many comments addressed lands, primarily in the Western Addition and the Northeast Addition north of Interstate 75 (I-75), that the NPS considered wilderness eligible but which commenters claimed actually included areas of noticeable human disturbance. Other commenters objected to wilderness in the alternatives and noted that wilderness designation would severely restrict motorized access needed for emergency response, fire management, exotic species control, wildlife management, hydrologic restoration, and traditional activities such as hunting. One agency recommended a non-wilderness buffer surrounding I-75 and the L-28 Interceptor Canal to accommodate future infrastructure maintenance.

NPS staff from the Preserve, DSC, and SERO met at the Preserve on November 3-4, 2009, to discuss public and agency comments on the draft GMP/EIS and any needed changes to the preferred alternative. The 2006 wilderness eligibility assessment was not discussed. The participants recommended the amount of proposed wilderness in the preferred alternative be reduced by eliminating all proposed wilderness in the Northeast Addition north of I-75, primarily because much of this area has been altered by previous agricultural practices. They determined that, in order to restore these lands to pre-disturbance conditions, which may take years to complete, the Preserve will need to use mechanized equipment to remove exotic vegetation and maintain natural conditions through prescribed fire. Furthermore, the land north of I-75 has many uplands and pinelands that are more prone to exotic incursion and wildfire, and Preserve staff will need to frequently access the northern area for resource management (exotics, fire, restoration and panther monitoring efforts), administration needs, and research. Staff would often need to make exceptions to wilderness restrictions, thus defeating the purpose of wilderness. Therefore, no lands north of I-75 are proposed as wilderness in the final preferred alternative.

In contrast, lands in the Northeast Addition south of I-75 include Mullet Slough and surrounding lands, which were not used in the past for farming and other human use as much as lands north of I-75. Also, since sloughs rarely burn unless they are very dry, the fire risk south of I-75 is not as high as those lands north of I-75, eliminating concerns over fire management in wilderness areas. Thus, the group decided to propose most of the Northeast Addition south of I-75 for wilderness designation in the preferred alternative.

The group also eliminated all lands from proposed wilderness in the Western Addition in the preferred alternative, primarily because a buffer strip of either $\frac{1}{4}$ to $\frac{1}{2}$ mile on the eastern edge of the State Road 29 right-of-way would be needed for access, management, and operations needs. With the buffer in place, the remaining lands would be too reduced in size and fragmented to manage as wilderness.

In summary, as a result of the November 2009 meeting, the acreage of proposed wilderness for the preferred alternative was reduced from 85,862 to 48,130.

As a separate analysis, in response to public comments received during the fall of 2009 concerning the 2006 wilderness eligibility assessment and after consulting with DSC, SERO and WASO, the Preserve convened a workshop on February 17, 2010, to review the 2006 assessment and pertinent public comments to the draft GMP/EIS in order to decide what changes if any should be made to the 2006 assessment. In attendance were representatives from the Preserve, DSC, and SERO. The comments regarding wilderness that were received during the open comment period in 2009 were reviewed and discussed.

The findings resulting from this workshop are detailed in Appendix B to the FGMP/EIS. The group first discussed the public comments, many of which were critical of the 2006 assessment. After reviewing the wilderness criteria, *Management Policies* requirements for determining wilderness eligibility, and the assumptions used in the 2006 assessment, the participants undertook a detailed review of the 2006 assessment and carefully evaluated all areas of the Addition for eligibility. The group relied on topographic maps, geographic information system overlays, recent aerial photography, and personal knowledge to conduct this review. For each area of the Addition, a determination of wilderness eligibility or ineligibility was made and the rationale was documented. All areas deemed ineligible in the 2006 assessment were also determined to be ineligible at this workshop, but some of the areas determined to be eligible in 2006 were now concluded to be ineligible primarily due to:

- Substantial evidence of past substantial agricultural disturbance, e.g., in the Western Addition between I-75 and U.S. 41 and in the Northeast Addition west of Nobles Ranch.
- A ¼-mile buffer on either side of roads, trails, and canals due to lack of opportunities for solitude and the presence of human disturbance. The lands adjacent to these features also frequently contain excavated areas and sidecast debris from construction and maintenance, as well as other artifacts.
- Fragmentation as a result of the two items previously described.

As a result of the February 2010 workshop, the eligible wilderness acreage was reduced from approximately 111,601 to 71,263.

Following the February 2010 workshop, the NPS drafted a final wilderness eligibility assessment and cover memorandum that was approved by the Director on May 12, 2010, and included as Appendix B to the FGMP/EIS. As a result of the final wilderness eligibility assessment, the wilderness study acreage evaluated for wilderness designated modified from 111,601 to the 71,263 acres found eligible in the 2010 assessment. The final acreages for proposed wilderness in the wilderness study were also modified for alternatives B, F, and the preferred alternative to 37,567, 71,260, and 47,067, respectively.

About 47,067 acres of land are proposed for wilderness designation under the selected alternative (see attachment 1). Approximately 24,196 acres were found to be eligible for wilderness designation but were not included as proposed wilderness because of alterations of these lands by past agricultural practices. Many of these lands will require intensive restoration efforts that may take years to complete, including the treatment and removal of exotic species as well as improving endangered species habitat. Upon rehabilitation, these lands will be reconsidered for wilderness recommendation. These lands are zoned primitive backcountry and will be managed for their wilderness

characteristics. Recreational motorized use will be prohibited in both wilderness and primitive backcountry areas.

The NPS is committed to the ongoing evaluation of management practices and will reconsider wilderness when natural qualities of the land are restored and/or agency management needs may require it.

The NPS will work cooperatively with the state of Florida, the U.S. Fish and Wildlife Service (USFWS), and other appropriate federal, state, and local agencies to ensure that the legislative act that formally designates wilderness in the Addition contains language that allows for effective management of exotic species, wildland and prescribed fire, scientific research and monitoring, law enforcement activities, as well as for the Miccosukee and Seminole tribes to continue exercising privileges granted to them by the Addition Act.

Partnerships, Programs, and Activities

The NPS will pursue partnerships to achieve management objectives and consider partnerships that provide a range of commercial services, including boat tours south of U.S. 41. The original Preserve's *Commercial Services Plan* will be amended to include the Addition.

Facilities

I-75 Mile Marker 51. A new access point will be developed at this location that includes parking and access for motorized and nonmotorized activities. Visitor orientation and interpretation panels will also be installed. The NPS will establish a partnership with the Florida Department of Transportation (FDOT) and FWC to establish other facilities as appropriate, such as a wildlife check station and boat ramp to access the South Florida Water Management District's L-28 Interceptor canal.

I-75 Mile Marker 63. A new access point will be developed at the FDOT rest area at this location that includes parking and trailheads. The site will provide access for motorized and nonmotorized activities. A new visitor center and an NPS operations facility will also be developed at this location. The NPS will establish a partnership with the FDOT and FWC to establish other facilities as appropriate, such as a wildlife check station.

Bear Island Grade at State Road (SR) 29. A new trailhead and parking area will be developed at this location, providing motorized and nonmotorized access to the site and to Bear Island Grade. This new access point will provide a connection to ORV trails in the original Preserve. Visitor orientation and interpretation panels will also be installed.

Nobles and Jones Grades. Primitive backcountry group camping areas will be provided along these grades.

Miles City (I-75 at SR 29). A new hiking trailhead, information kiosk, and small parking area will be developed outside the interchange area, which is closed to development.

Deep Lake (SR 29). The site will be developed into a day use area with parking, restrooms, picnic shelters, and a hiking trail/boardwalk to Deep Lake.

Copeland (SR 29). The NPS Fire Operations Center will be maintained at this location and expanded as necessary for other NPS operational needs.

Carnestown (U.S. 41 at SR 29). The existing facilities will be used to support commercial services and/or partner organizations, such as the Collier County Sheriff's Office, that will operate at this location, including enhancements that will support visitor service needs.

User Capacity, Adaptive Management, and ORV Administration and Management

The FGMP/EIS includes detailed information on user capacity, adaptive management, and ORV administration and management that are part of the selected action.

A suite of user capacity indicators, standards, and management strategies will be used to protect Addition resources and enhance visitor experiences, including strategies to minimize and manage adverse impacts from motorized use – such as vehicle regulations, user permit allocations, a monitoring program, and potential management actions that would be used to correct issues and minimize impacts on resources. The overall approach to user capacity for ORV use also includes adaptive management, which allows managers to base decisions on monitoring results. In addition, the charter for the original Preserve's ORV Advisory Committee will be amended to include the Addition, which will enable the committee to advise the NPS on adopting and refining the indicators and standards over time.

The preferred alternative/selected action includes guidance on a variety of ORV administration and management topics, which are addressed in detail in the FGMP/EIS. ORV administration topics include vehicle types and specifications, a vehicle inspection program, the number and allocation of vehicle permits, special use permits for private property owners, and administrative ORV use. ORV management topics include ORV access points and trails, closure of areas, education and communication, rules and enforcement, methods of monitoring, and management actions. The selected action also includes

a strategy and schedule for implementation of the ORV program in the Addition.

MITIGATION MEASURES / MONITORING

The following mitigation measures and best management practices will be applied to avoid or minimize potential impacts from implementation of the selected action.

Natural Resources

General. The Addition's resources, including air, water, soils, vegetation, and wildlife, will be periodically inventoried and monitored to provide information needed to avoid or minimize impacts of future development. Any museum collections related to natural resources generated by such activities will be managed according to NPS policies.

Whenever possible, new facilities will be built in previously disturbed areas or in carefully selected sites with as small a construction footprint as possible and with sustainable design. During design and construction, NPS natural and cultural resource staff will identify areas to be avoided and monitor activities.

Fencing or other means will be used to protect sensitive resources adjacent to construction areas.

Construction materials will be kept in work areas, especially if the construction takes place near surface waters or wetlands.

Visitors will be informed of the importance of protecting the Addition's natural resources and leaving these undisturbed for the enjoyment of future generations.

Air Quality. A dust abatement program will be implemented. Standard dust abatement measures could include watering or otherwise stabilizing soils, covering haul trucks, employing speed limits on unpaved roads, minimizing vegetation clearing, and revegetating after construction.

Soils. New facilities will be built on soils suitable for development. Soil erosion will be minimized by limiting the time soil is left exposed and by applying other erosion control measures such as erosion matting, silt fencing, and sedimentation basins in construction areas to reduce erosion, surface scouring, and discharge to water bodies. Once work is completed, construction areas will be revegetated with native plants in a timely period.

To minimize soil erosion during ORV trail stabilization, best management practices will be used.

Water Resources. To prevent disruption of natural surface water flows, trails will be designed, built, and/or maintained so that the trail surface is kept at the natural grade of the surrounding landscape, as appropriate. Techniques that will help mitigate trail rutting that could otherwise occur in wet areas of the Addition include "at-grade" maintenance, trail stabilization with aggregate material, culverts, and low-water crossings. This mitigation will help preserve the natural sheet flow through the Addition at a local and regional level. In addition, if trail conditions eventually become degraded in areas and surface flow becomes altered, the indicator and standards monitoring program will be applied to remedy the situation and restore surface water flows. The use of culverts, low-water crossings, and at-grade trail construction and maintenance are examples of such techniques.

To prevent water pollution during construction, erosion control measures will be used, discharges to water bodies will be minimized, and construction equipment will be regularly inspected for leaks of petroleum and other chemicals.

Best management practices for water quality protection, such as the use of silt fences, will be followed to ensure that construction-related effects are minimal and to prevent long-term impacts on water quality, wetlands, and aquatic species.

Caution will be exercised to protect water resources from activities that could damage water resources, including damage caused by construction equipment, erosion, and siltation. Construction will occur in dry conditions whenever possible. Measures will be taken to keep fill material from escaping work areas, especially near surface waters and wetlands.

For new facilities, and to the extent practicable for existing facilities, stormwater management measures will be implemented to reduce nonpoint source pollution discharge from parking lots and other impervious surfaces. Such actions could include use of oil/sediment separators, street sweeping, infiltration beds, permeable surfaces, sedimentation basins, and vegetated or natural filters to trap or filter stormwater runoff.

The NPS spill prevention and pollution control program for hazardous materials will be followed and updated on a regular basis. Standard measures could include (1) procedures for hazardous materials storage and handling, spill containment, cleanup, and reporting, and (2) limitation of refueling and other hazardous activities to upland/non-sensitive sites.

Wetlands. Wetlands will be delineated by qualified NPS staff or certified wetland specialists and clearly marked before construction work. During construction, wetlands will be avoided if possible;

otherwise construction activities will be performed in a cautious manner to prevent damage caused by equipment, erosion, and siltation.

In addition to the above wetland mitigation measures, the NPS will conduct additional future wetland impact and mitigation analysis, per NPS policy and Section 404 of the Clean Water Act, administered by the Army Corps of Engineers. This future analysis will include the development of a "Wetlands Statement of Findings," as required by NPS policy. The "Wetlands Statement of Findings" identifies and analyzes all wetland functions and values affected by NPS actions in a park unit. The "Wetlands Statement of Findings" for this management plan will quantify all wetland impacts from management actions specified in the plan. Although Section 404 of the Clean Water Act pertains only to wetland filling and dredging, the NPS statement of findings policy addresses the impacts on several other wetland values, such as wildlife habitat, soils, vegetation communities, surface hydrology, aesthetics, and cultural values. The detailed functional analysis of wetland impacts and the development of wetland avoidance and mitigative measures will be completed as part of the "Wetlands Statement of Findings." The effects of ORV use associated with this management plan will likely be the primary focus of the "Wetlands Statement of Findings" for the Addition. No ORV use, ORV trail development, or other actions with wetland impacts will be implemented or allowed until the appropriate wetland policy requirements are met.

Vegetation. Areas used by visitors (e.g., trails, developed areas, and designated campsites) will be monitored for signs of native vegetation disturbance. Public education, revegetation of disturbed areas with native plants, erosion control measures, and barriers will be used to control potential impacts on plants from trail erosion or social trailing.

Proposed sites for trails and other facilities will be surveyed for sensitive species before construction. If sensitive species are present, new developments will be relocated to avoid impacts.

Revegetation plans will be developed for areas disturbed by facility construction. Revegetation plans will specify such features as seed/plant source, seed/plant mixes, soil preparation, fertilizers, and mulching. Salvage vegetation, rather than new planting or seeding, will be used to the greatest extent possible. To maintain genetic integrity, native plants that grow in the project area or the region will be used in restoration efforts whenever possible. Use of nonnative species or genetic materials will be considered only where deemed necessary to maintain a cultural landscape or to prevent severe resource damage, and these materials will be approved by the Preserve's resource management staff. Restoration activities will be instituted immediately after construction is completed. Monitoring will occur to ensure that revegetation is successful, plantings are maintained, and unsuccessful plant materials are replaced.

Nonnative Species. Special attention will be devoted to preventing the spread of exotic and invasive plant and animal species. For exotic invasive plants, standard measures could include the following elements: ensuring that construction-related equipment arrives on site free of mud or seed-bearing material, certifying all seeds and straw material as free of weeds, identifying areas of nonnative plants before construction, treating exotic plants or exotic infested topsoil before construction (e.g., topsoil segregation, storage, herbicide treatment), and revegetating with appropriate native species.

Nonnative animals will be addressed with more direct, species-specific control methods. In many cases, NPS control methods will be in cooperation with other agencies, such as FWC. Some examples of exotic animal control efforts include the trapping and removal of the walking catfish (*Clarias batrachus*), the python capture program, or the "Partner with Hunters" pilot program that permits game hunters to kill pythons in the Preserve.

Wildlife. To the extent possible, new or rehabilitated facilities will be sited to avoid sensitive wildlife habitats, including feeding and resting areas, major travel corridors, nesting areas, and other sensitive habitats.

Construction activities will be timed to avoid sensitive periods, such as nesting or breeding seasons. Ongoing visitor use and NPS operational activities could be restricted if their potential level of damage or disturbance warranted doing so.

Measures will be taken to reduce the potential for wildlife to get food from humans. Wildlife-proof garbage containers will be required in developed areas, including visitor centers, picnic areas, trails, and interpretive waysides. Signs will continue to educate visitors about the need to refrain from feeding wildlife.

Other visitor impacts on wildlife will be addressed through techniques such as visitor education programs, restrictions on visitor activities, and ranger patrols.

The NPS, in partnership with the USFWS and the FWC, will establish white-tailed deer harvest limits in the Addition via deer population monitoring. The NPS will develop a hunting management plan for the Preserve, including the Addition, which will require National Environmental Policy Act (NEPA) compliance. Both the Preserve's hunting management plan and the white-tailed deer harvest limits will be developed in consideration of one another, because other public uses allowed under this general management plan may also affect white-tailed deer behavior and population.

Also, because the endangered Florida panther is dependent on white-tailed deer, both the NPS hunting management plan and the harvest limits will consider the effect of game management and hunting on the panther. The development of the hunting management plan through the

required NEPA process will incorporate any new data that identifies correlations between hunting, white-tailed deer populations, and the Florida panther. To ensure informed decision-making regarding deer and endangered species protection, the NPS will work cooperatively with the USFWS and FWC on hunting management issues in the Preserve, both through the NEPA compliance process as well as via interim coordination.

Threatened and Endangered Species and Species of Concern.

Conservation measures will occur during normal operations as well as before, during, and after construction to minimize long-term, immediate impacts on rare, threatened, and endangered species where they are identified in the Addition. These conservation measures will be incorporated as necessary into each specific action of this plan as the plan is implemented. These measures may vary slightly for each project and affected area of the Addition. Many of the measures listed above for vegetation and wildlife will also benefit rare, threatened, and endangered species by helping to preserve habitat. Conservation measures specific to rare, threatened, and endangered species will include the following actions:

- Surveys will be conducted for special status species, including rare, threatened, and endangered species, before deciding to take any action that might cause harm or disturb habitat value. To provide baseline data, the surveys will be conducted before any introduced action or disturbance, including recreational facilities and uses. In consultation with USFWS, National Marine Fisheries Service (NMFS), and FWC, appropriate measures will be taken to protect any sensitive species, whether identified through surveys or presumed to occur.
- Any breeding or nesting areas for threatened and endangered species observed in the Addition will be protected from human disturbance to the greatest extent possible, per the guidelines and recommendations of USFWS, NMFS, and FWC.
- New facilities and management actions will be located and designed to avoid adverse effects on habitat for rare, threatened, and endangered species. If avoidance of adverse effects on rare, threatened, and endangered species is not possible, appropriate conservation measures will be taken in consultation with the appropriate resource agencies.
- A special status species education plan that targets all occupants of the Preserve, including NPS staff, contractors, and the public, will be developed and implemented. The plan will aim at providing important information about the various species in order to minimize or eliminate avoidable habitat disturbances from human activity.
- Restoration or monitoring plans will be developed and implemented per the recommendations and standards of the appropriate resource agencies. Plans should include methods for implementation, performance standards, monitoring criteria, and adaptive management techniques. The plans will include scheduling future surveys of

special status species, which will be used to assess the impact of management actions and public uses on the various species.

- Measures will be taken to reduce adverse effects of nonnative plants and wildlife on habitat for rare, threatened, and endangered species.

In addition to the above conservation measures, protection of special status species will be maintained through future compliance with Section 7 of the Endangered Species Act for the development of the Addition's recreational access points along I-75. This Section 7 compliance will correlate to the NEPA compliance that was completed in 1991 through the *I-75 Recreational Access Plan Environmental Assessment*. Although consideration will be given to all special status species during these future actions, particular attention will be given to the endangered Florida panther. Additional research is being conducted that analyzes possible correlations between ORV use, hunting, and panther populations and distribution. The NPS will incorporate any new data about recreation impacts on the panther into the future Section 7 compliance for recreational access points. This future compliance will involve the assessment of appropriate ORV levels of use by area (i.e., permit numbers and opened trail locations and mileages) and the effects of these management actions on the Florida panther and its habitat.

To ensure informed decision-making regarding ORV use and endangered species protection, the NPS will consult with the USFWS and FWC through the Endangered Species Act Section 7 compliance process. The NPS will also engage in interim informal coordination with the USFWS and FWC.

Specific Terms and Conditions Required by the U.S. Fish and Wildlife Service – USFWS issued a Biological Opinion (attachment 2) for this project dated November 17, 2010, that required the below terms and conditions to be met (see attachment 2).

1. Minimize human disturbance and habitat degradation.
 - a. The NPS will provide educational materials to ORV permittees and recreational users of the Addition that stress the importance of obeying speed limits and watching for Florida panthers on roadways in the vicinity of the Preserve.
 - b. NPS staff will coordinate with the USFWS to identify and define appropriate photo monitoring sites and plans for the Addition.
 - c. NPS staff will coordinate with the USFWS to identify an optimal trail marking procedure to ensure that ORV users stay on designated trails.

- d. Trails will not be opened until after photo points, if necessary, are established and trail marking efforts are completed.
2. Minimize take through a better understanding of the interactions of the Florida panther and its environment in the Addition.
- a. Data collection or monitoring, performed or funded by NPS (hunter use data analysis, camera traps, etc.) on panther use of the Addition Lands that is being currently collected will be continued.
 - b. Annual status reports and meetings between NPS and USFWS staff will continue to occur and will cover both the Bear Island Unit of the original Preserve and the Addition.
 - c. Reports shall be submitted to the USFWS at 1339 20th Street, Vero Beach, Florida, 32960-3559 by November 30 every year until NPS and USFWS staff agree that reporting is no longer necessary. The report contents and level of detail will vary depending on the progress of implementation of the selected action. The report will be as detailed as necessary to summarize the actions and observations, including the following information:
 - i. The current status of the implementation of the selected action as well as any milestones that have been completed.
 - ii. Any mapping of selected action components in the Addition.
3. Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the USFWS Office of Law Enforcement (10426 NW 31st Terrace, Miami, Florida 33172; 305-526-2610). Additional notification must be made to the Florida Fish and Wildlife Conservation Commission at 1-888-404-FWCC (3922). Notification should also be made to the Florida Fish and Wildlife Conservation Commission, South Region, 8535 Northlake Boulevard, West Palm Beach, Florida 33412, and if it is a panther also to Darrell Land, Panther Team Leader, Florida Fish and Wildlife Conservation Commission, 566 Commercial Boulevard, Naples, Florida 34104; 239-643-4220.

Care should be taken in handling sick or injured specimens to ensure effective treatment and care in the handling of dead specimens to preserve biological material in the best possible state for later analysis as to the cause of death. In conjunction with the care of sick or injured panthers or preservation of biological materials from a dead animal, the finder has the responsibility to carry out instructions provided by Law Enforcement staff to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

Soundscape. Standard noise abatement measures will be followed during construction. Standard noise abatement measures could include the following elements: a schedule that minimizes impacts on adjacent noise-sensitive resources, the use of the best available noise control techniques wherever feasible, the use of hydraulically or electrically powered tools when feasible, and the location of stationary noise sources as far from sensitive resources as possible. Facilities will be located and designed to minimize objectionable noise.

Scenic Resources. Mitigation measures will be designed to minimize visual intrusions. These measures could include the following:

- Where appropriate, facilities such as boardwalks and fences will be used to route people away from sensitive natural and cultural resources while still permitting access to important viewpoints.
- Facilities will be designed, sited, and constructed to avoid or minimize visual intrusion into the natural environment or landscape.
- Vegetative screening will be provided, where appropriate.

User Capacity Indicators. The type and level of visitor use that can be accommodated while sustaining the desired resource conditions and visitor experience of the Addition are addressed in the FGMP/EIS through a set of indicators and standards that provide limits of acceptable change for the Addition. As described in the FGMP/EIS, NPS staff will monitor the indicators and take management action to ensure that potential impacts on natural and cultural resources do not exceed established standards.

Cultural Resources

Prior to the implementation of any project associated with the selected action that could affect cultural resources (archeological resources, historic structures, cultural landscapes, and ethnographic resources), the NPS will consult as appropriate with the Florida state historic preservation officer (SHPO) and, as necessary, American Indian tribes traditionally associated with Preserve lands, in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470 et seq.)(NHPA). All reasonable measures will be taken to avoid, minimize, or mitigate adverse effects to cultural resources.

The NPS will also undertake the measures listed below to further protect the Addition's cultural resources:

- As appropriate, archeological surveys and/or monitoring will precede any ground disturbance. Significant archeological resources will be avoided to the greatest extent possible during construction. If such resources cannot be avoided, an appropriate mitigation strategy will be developed in consultation with the SHPO and, as necessary,

American Indian tribes. If during construction previously unknown archeological resources are discovered, all work in the immediate vicinity of the discovery will be halted until the resources can be identified and documented and, if the resources cannot be preserved *in situ*, an appropriate mitigation strategy developed. In the unlikely event that human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during construction, provisions outlined in the Native American Graves Protection and Repatriation Act (25 USC 3001) of 1990 will be followed. If non-Indian human remains are discovered, standard reporting procedures to the proper authorities will be followed, as will all applicable federal, state, and local laws.

- Ethnographic resources will be protected and mitigated by such means as identifying and maintaining access for recognized and affiliated groups to traditional, spiritual/ ceremonial, resource gathering, and other activity areas. As practical, new developments will be screened from these areas, and conflicting uses will be relocated or timed to minimize disruptions.
- Further background research, resource inventories, and National Register of Historic Places evaluation of cultural resources will be carried out where management information is lacking. The surveys and research necessary to determine the eligibility of a cultural resource for listing in the national register are a prerequisite for understanding the resource's significance, as well as the basis of informed decision-making in the future regarding how the resource should be managed. The results of these efforts will be incorporated into site-specific planning and compliance documents.
- No National Register of Historic Places listed or eligible structure will be removed or allowed to decay naturally ("molder") without prior review by NPS cultural resource specialists and consultation with the SHPO. Before a national register listed or eligible property is removed or allowed to molder, appropriate documentation recording the property will be prepared in accordance with Section 110 (b) of NHPA and the documentation submitted, as appropriate, to the Historic American Buildings Survey/Historic American Engineering Record/ Historic American Landscapes Survey program.
- Visitors will be educated on the importance of protecting the Addition's cultural resources and leaving them undisturbed for the enjoyment of future visitors.

Visitor Safety and Experience

Measures to reduce adverse effects of construction on visitor safety and experience will be implemented, including project scheduling and best management practices.

Visitor safety concerns will be integrated into Preserve educational programs. Directional signs will continue to orient visitors, and education programs will continue to promote understanding among visitors.

Socioeconomic Environment

During any future implementation planning and implementation of the approved general management plan for the Addition, the NPS will work with local communities and county governments to further identify potential impacts and mitigation measures that will best serve the interests and concerns of both the NPS and the local communities. Partnerships will be pursued to improve the quality and diversity of community amenities and services.

OTHER ALTERNATIVES CONSIDERED

Several other alternatives were considered during the planning process. The paragraphs below describe the concept and key features of these alternatives. More detailed information on these alternatives can be found in the FGMP/EIS.

ALTERNATIVE A: THE NO-ACTION ALTERNATIVE (CONTINUE CURRENT MANAGEMENT)

The no-action alternative describes a continuation of existing management and trends in the Addition and provides a baseline for comparison in evaluating the changes and impacts of the other alternatives. The NPS would continue to manage the Addition as it is currently being managed. The Addition would remain closed to public recreational motorized use, and only minor new construction (other than the mile marker 51 and mile marker 63 access points) would be authorized to accommodate visitor access, primarily for hiking and biking. Existing operations and visitor facilities would remain in place. Natural ecological processes would be allowed to occur, and restoration programs would be initiated where necessary. No wilderness would be proposed for designation.

ALTERNATIVE B

The concept for management under alternative B would be to enable visitor participation in a wide variety of outdoor recreational experiences. It would provide the most motorized access, propose the least amount of wilderness, and develop limited new hiking-only trails. The entire ORV trail system would be implemented without phased establishment and the assessment of monitoring results. New visitor and operations facilities along the I-75 corridor would also be provided.

ALTERNATIVE F

Alternative F would emphasize resource preservation, restoration, and research while providing recreational opportunities with limited

facilities and support. This alternative would propose the most wilderness, no ORV use, and minimal new facilities for visitor contact along I-75.

Two additional alternatives, C and E, were developed early in the planning process but were eliminated through the Choosing by Advantages process. Another alternative, D, was modified and subsequently became the preferred alternative.

BASIS FOR DECISION

Six preliminary alternatives were developed and released to the public in April 2007. Following the conclusion of the public comment period, the NPS developed a preferred alternative using the Choosing by Advantages process. The first step was to decide the factors to be used in developing the preferred alternative, which were: (1) Provide for a Range of Appropriate Visitor Opportunities and Access; (2) Protect Cultural and Natural Resources and Restore Natural Processes; (3) Preserve or Enhance Wilderness Values; and (4) Provide for Effective/Efficient NPS Operations and Public Safety. The planning team rated the preliminary alternatives against each factor, documented the relative advantages that each alternative afforded, and considered their costs. Based on this process and the public comments received, the preferred alternative was developed and, along with alternatives A, B, and F, was released to the public in the draft EIS published in July 2009.

The NPS received approximately 17,000 pieces of correspondence in response to the draft EIS, most of which expressed a preference for alternatives B or F. Commenters expressed both support and opposition to motorized access in the Addition for a variety of reasons. Commonly cited concerns included ORV access and trail opportunities, hunting, ORV administration, impacts to wildlife including federally listed species, wilderness preservation, exotic species management, and visitor experience. Commenters also expressed both support and opposition to wilderness designation in the Addition. Commonly cited reasons included ORV access, fire management, exotic species management, and opportunities for solitude. In response to the comments and as a result of additional analysis and review, several changes were made to the preferred alternative. These changes include: A final wilderness eligibility determination was completed, and wilderness proposed in the preferred alternative was limited to the Northeast Addition south of I-75 only. Additional field investigation of the sustainable ORV trail system was conducted, and the number of miles of primary trails in the preferred alternative was reduced to further limit impacts to sensitive species and their habitats. The revised preferred alternative included in the final EIS meets the Addition's and Preserve's enabling legislative requirements to preserve, conserve, and protect natural and cultural resources while providing for public enjoyment. The selected alternative best balances

the NPS's need to provide high-quality visitor experiences and protect Addition resources. The selected alternative also addresses public comments and concerns received, as summarized in the section entitled, "Public and Agency Involvement" in this ROD.

FINDINGS ON IMPAIRMENT OF ADDITION RESOURCES AND VALUES

A determination of impairment for the selected action is included in attachment 3.

All practical measures to minimize environmental harm from the selected alternative have been adopted and are described in the previous "Mitigation Measures / Monitoring" section.

ENVIRONMENTALLY PREFERABLE ALTERNATIVE

The environmentally preferable alternative is determined by applying criteria set forth in NEPA, as guided by regulations issued by the Council on Environmental Quality (CEQ). The CEQ regulations direct that "the environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA Section 101: (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradations, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety, of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources."

For the reasons described in the paragraphs that follow, the selected action is the environmentally preferable alternative in its ability to best meet the six national environmental criteria set forth in NEPA.

1. The Addition is a unit of the national park system, and as the trustee of this area the NPS would continue to fulfill its obligation to protect this area for future generations. The no-action alternative (alternative A) would provide less direction on important issues needed to successfully manage the Addition; consequently it was ranked lower than the action alternatives. Alternative F would provide the greatest level of protection for Addition resources over time.

2. All the alternatives would ensure safe, healthful, productive, and culturally pleasing surroundings for all Americans.
3. Alternative F includes more emphasis on resource preservation and enhancement; however, it limits the beneficial uses that could be derived from human recreation and learning. Therefore, alternative B and the preferred alternative received equally high ratings. The no-action alternative provides less beneficial uses due to the fact that it would remain closed to public recreational ORV use.
4. Alternatives A and F do not include the same level of diversity of recreational opportunities and individual choices that are included in the preferred alternative and alternative B. The preferred alternative includes the same level of recreational opportunities as in alternative B. However, the phased implementation of ORV permits and trails under the preferred alternative best protects the natural resources and recreational values of the Addition.
5. All of the alternatives offer environmental protection benefits to society. However, alternative B and the preferred alternative both offer opportunities for resource use and enjoyment that are not available in alternatives A and F.
6. All of the action alternatives would result in enhancing the quality of the renewable resources through NPS management.

PUBLIC AND AGENCY INVOLVEMENT

The general management planning process involves many steps, including: identification and confirmation of the Addition's purpose, significance and mission goals; acknowledgement of special mandates, laws, and policies; involvement of the public and identification of issues; development of alternatives; description of the existing environment; and impact analysis. Agencies and the public were invited to participate at various steps throughout the planning process, and this coordination and involvement is described herein.

Public meetings and seven newsletters were used to keep the public informed and involved in the planning process for the Addition. A mailing list was compiled that consisted of governmental agencies, tribes, nongovernmental organizations, businesses, legislators, local governments, and interested citizens. Announcements for all project meetings, newsletters, and documents were posted to the NPS PEPC Internet site, <http://parkplanning.nps.gov/bicy>.

The notice of intent to prepare an environmental impact statement was published in the *Federal Register* on June 12, 2001.

The first newsletter concerning the general management plan for the Addition was issued in July 2001, and it outlined the purpose of the

Preserve and the Addition. It also stated the Addition's significance, including its natural and cultural heritage, and outlined the planning process for completing the general management plan. It urged the public to actively participate in the process by commenting on the purpose and significance statements and by attending one of the four public scoping meetings held during summer 2001 in Everglades City, Naples, Miami, and the Big Cypress Seminole Reservation. Approximately 90 people attended the scoping meetings, and more than 100 comments and suggestions were received from individuals, organizations, and agencies.

The second newsletter was issued in August 2002 and included revised purpose and significance statements, an overview of the issues and comments received in response to the first newsletter, and a description of the next steps for the project.

The third newsletter, issued in October 2005, outlined the preliminary alternatives and management zones for the Addition. Three public meetings were held in December 2005 in Everglades City, Naples, and Weston to discuss and receive feedback on the preliminary alternatives. A total of 794 individuals provided comments in response to this newsletter, with more than 70% of the responses attributed to commenters from outside Florida.

A fourth newsletter was released in May 2006 outlining the need for a wilderness study and off-road vehicle management plan for the Addition. The expansion of the scope of the planning process was a result of the strong response received from interested individuals, organizations, and public agencies as well as legal requirements. The notice of intent to expand the scope of the plan was published in the *Federal Register* on April 25, 2006. Three public meetings were announced and held in May 2006 in Everglades City, Naples, and Fort Lauderdale to gather comments on expanding the scope of the project to include the additional planning elements.

A fifth newsletter was released in April 2007 that outlined the revised preliminary alternatives and management zones for the Addition, incorporating proposed wilderness and ORV trails. Three public meetings were held in May 2007 in Everglades City, Naples, and Weston to gather input concerning the revised preliminary alternatives. About 4,800 comments on the revised preliminary alternatives were received from the public.

A sixth newsletter published in February 2008 provided a status update, with emphasis on how the general management plan would address access to the Addition from I-75.

The *Draft General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was released to the public on July 10, 2009, the date of publication of the Environmental Protection Agency's "Notice of Availability" of the draft plan in the *Federal Register*. Four public meetings were held

across south Florida to review the draft plan and receive public input – August 10, 2009, in Miami, Florida; August 11, 2009, in Naples, Florida; August 12, 2009, in Everglades City, Florida; and September 22, 2009, in Weston, Florida. The public comment period closed on September 30, 2009.

A total of four wilderness hearings were held in conjunction with the public meetings for the draft plan but included a specific opportunity to provide input and comments on the wilderness study and proposal. A total of 104 individuals spoke and provided oral comments. A hearing officer presided over the hearings and moderated the public comment session. A certified court reporter attended all four hearings, recorded all testimony, and prepared an official transcript of the hearings.

A total of 16,912 pieces of correspondence about the draft plan were received from individuals, organizations, tribes, and agencies. All comment letters received from agencies and organizations, as well as the transcripts from the wilderness hearings, were posted to the NPS PEPC Internet site for public inspection. A report was also prepared that summarized the comments that were received during the review period for the draft plan; it was posted to the PEPC site in December 2009.

To comply with Executive Order 11988: "Floodplain Management" and NPS Director's Order 77-2, a draft "Floodplain Statement of Findings" was prepared and released to the public on May 11, 2010. The document was posted to the PEPC site and was available for public review and comment for three weeks. A direct mailing was sent to all parties that received a copy of the draft plan informing them of the availability of the "Floodplain Statement of Findings" and inviting their review and comment. A news release was also issued. No comments were received on the document, and it was approved by the director of the NPS Southeast Region on June 22, 2010 (attachment 4).

A seventh and final newsletter was issued in July 2010 updating the public on the next steps of the project and the expected dates for release of the final management plan and the agency's ROD on the project.

The *Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was released to the public on December 6, 2010, the date of publication of the Environmental Protection Agency's "Notice of Availability" of the final plan in the *Federal Register*.

AGENCY AND AMERICAN INDIAN CONSULTATION AND COORDINATION

National Historic Preservation Act Section 106 Consultation

Federal agencies that have direct or indirect jurisdiction over historic properties are required by Section 106 of NHPA to take into account the effect of any undertaking on properties eligible for listing in the National Register of Historic Places. To meet the requirements of 36 *Code of Federal Regulations* 800, the NPS mailed a letter to the SHPO on February 22, 2001, inviting their participation in the planning process.

In the draft management plan the NPS determined that the preferred alternative has the potential to have adverse effects on cultural resources and mailed a copy of the plan to the SHPO with a request for written concurrence with that determination.

In a letter dated September 18, 2009, the SHPO stated that cultural and historical resources were adequately addressed by the draft plan and that they agreed that the preferred alternative has the potential to adversely affect cultural resources. Therefore, continued consultation will be required before the initiation of ground-disturbing activities.

Endangered Species Act Section 7 Consultation

During the preparation of this document, the NPS coordinated with USFWS, Vero Beach, Florida office and NMFS. A letter was sent to USFWS on August 21, 2001, initiating informal consultation and requesting a threatened and endangered species list.

The USFWS South Florida Ecological Services Office provided comments throughout the planning process. The list of threatened and endangered species included in the FGMP/EIS was compiled using lists and information received from USFWS and NMFS.

In accordance with the Endangered Species Act and relevant regulations at 50 CFR Part 402, the NPS initially determined in the draft GMP/EIS that the preferred alternative was *likely to adversely affect* two listed species – the Florida panther and the red-cockaded woodpecker; and *not likely to adversely affect* another three listed species – the West Indian manatee, wood stork, and American crocodile. The NPS sent a copy of the draft management plan to USFWS with a request to initiate formal consultation. The letter included references to the sections and pages of the draft plan that contained a description of the impacts on listed species and would serve as the "Biological Assessment." A USFWS *Interagency Section 7 Biological Evaluation* form was also submitted at that time.

The NPS determined that the draft plan would have no effect on listed species that are under the jurisdiction of NMFS and also mailed a copy of the draft plan to NMFS in accordance with section 7(a)(2) of the Endangered Species Act.

In a letter dated October 9, 2009, the USFWS South Florida Ecological Services Office stated that the draft plan did not contain sufficient analysis of the potential effects of the alternatives on federally listed species, especially the Florida panther. They indicated that additional information was needed for the plan and the "Biological Assessment." In particular, they indicated that three species, the Everglade snail kite, eastern indigo snake, and American crocodile could be affected by the actions included in the plan and that these species should be included in the environmental impact analysis and "Biological Assessment." In response to their letter, the NPS revised the plan and included the required analysis of listed species in the *Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement*.

Since that time, the NPS has continued to consult with USFWS on impacts to listed species, and, based on input from USFWS, has determined that effects on listed species are limited to the Florida panther. Consequently, a revised *Interagency Section 7 Biological Evaluation* form was prepared and submitted to USFWS on September 28, 2010. The effects determinations in this Biological Evaluation form supersede and replace the Section 7 determinations included in the FGMP/FEIS document, which was being printed at the time of these continued consultations. Accordingly, the "Biological Opinion" (see attachment 2) issued by USFWS on November 17, 2010, addresses only effects on the Florida panther and the required terms and conditions necessary to issue an Incidental Take Permit. These terms and conditions are referenced in the "Mitigation" section of this ROD.

National Environmental Policy Act (NEPA) and Clean Air Act Compliance

The Environmental Protection Agency (EPA) has the authority and duty to evaluate federal agency compliance with NEPA and the Clean Air Act. A copy of the *Draft General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to EPA with a request for their review and concurrence.

In a letter dated September 3, 2009, EPA, Region 4, stated that the draft plan did not contain sufficient information to fully assess the environmental impacts that should be avoided in order to protect the environment. They rated the draft plan EC-2 (Environmental Concerns, additional information requested) and indicated that additional information should be included in the final plan.

The plan was revised to meet EPA's requirements and respond to their comments and concerns, and a copy of the *Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to EPA on November 23, 2010.

Coastal Zone Management

The Coastal Zone Management Act was enacted in 1972 to preserve, protect, develop, and where possible, restore and enhance the resources of the nation's coastal zone. The act requires federal agency activities (i.e., "direct" agency activities) to be fully consistent with a state's approved coastal management program, unless full consistency is prohibited by federal law. The Florida coastal management program was approved by the National Oceanic and Atmospheric Administration in 1981 and is codified at Chapter 380, Part II, *Florida Statutes*. The Florida Coastal Management Program consists of 23 Florida statutes that are administered by eight state agencies and five water management districts. This framework allows the state to make integrated, balanced decisions that ensure the wise use and protection of the state's water, property, cultural, historic, and biological resources; protect public health; minimize the state's vulnerability to coastal hazards; ensure orderly, managed growth; protect the state's transportation system; and sustain a vital economy.

The NPS proposes no development in any area of the Addition that would conflict with the coastal zone management program.

A copy of the *Draft General Management Plan/ Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to the Florida State Clearinghouse with a request for its review and concurrence.

In a letter dated September 29, 2009, the Florida Department of Environmental Protection, on behalf of all state agencies that reviewed the draft plan, stated that the draft plan was inconsistent with the state's coastal management program. It stated that for the plan to receive a "consistency determination," two specific conditions must be met.

The plan was revised to meet the Florida Department of Environmental Protection's requirements and respond to its comments and concerns and a copy of the *Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to the Florida State Clearinghouse on November 24, 2010. In a letter dated December 23, 2010, the state of Florida indicated that the final plan was sufficient and met all requirements.

The State of Florida

The Preserve's enabling legislation, PL 93-440, as amended by the Addition Act, PL 100-301, requires the NPS to consult and cooperate with the state of Florida on such issues as implementation of hunting restrictions and the establishment of recreational access points into the Preserve along I-75. During preparation of this document, the NPS conducted several meetings with FDOT and FWC to gather input and to ensure that facilities and activities contemplated in the alternatives were consistent with the plans, standards, and regulatory requirements

of these agencies. The 1990 *I-75 Recreational Access Plan* called for two access points in the Addition, and the NPS met several times with FDOT concerning planning of these sites to ensure consistency with that plan and the alternatives described in the FGMP/EIS. Because hunting is mandated by the enabling legislation and regulated by FWC, close consultation with that agency was essential to consider expanding hunting opportunities in the Addition. FWC was regularly briefed on the status of the management plan at commission meetings, and a two-day workshop attended by several state and regional commission representatives was held at the Preserve in November 2008 to review and comment on the draft document.

A copy of the *Draft General Management Plan/ Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to the Florida State Clearinghouse with a request for their review and concurrence. The draft plan was distributed to the following state agencies for review: Department of Environmental Protection; Department of Agriculture and Consumer Services, Division of Forestry; FWC; Department of Community Affairs; South Florida Water Management District; Southwest Florida Regional Planning Council; and the Department of State.

In a letter dated September 29, 2009, the Florida Department of Environmental Protection, on behalf of all of the state agencies that reviewed the draft plan, stated that the draft plan was inconsistent with the department's statutory authorities under Chapters 253, 259 and 373 of *Florida Statutes*. The letter included a number of concerns, requests, and recommendations that reflect the consensus position of the state on this project.

The plan was revised to meet the Florida Department of Environmental Protection's requirements and respond to their comments and concerns, and a copy of the *Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to the Florida State Clearinghouse on November 24, 2010. In a letter dated December 23, 2010, the state of Florida indicated that the final plan was sufficient and met all state requirements.

Consultation with Native Americans

The NPS recognizes that indigenous peoples may have traditional and contemporary interests and ongoing rights in lands now under NPS management, as well as concerns and contributions to make for the future via the scoping process for general management plans and other projects. Related to tribal sovereignty, the need for government-to-government Native American consultations stems from the historic power of Congress to make treaties with American Indian tribes as sovereign nations.

Consultations with American Indians and other Native Americans, such as Alaska Natives and Native Hawaiians, are required by various

federal laws, executive orders, regulations, and policies. For example, such consultations are needed to comply with Section 106 of NHPA. Implementing regulations of the CEQ for NEPA also call for Native American consultations.

Letters were sent to the Seminole Tribe of Florida, the Seminole Nation of Oklahoma, and the Miccosukee Tribe of Indians of Florida on December 12, 2001, to invite their participation in the planning process. Each tribe was invited to meet at its convenience at a tribally selected place such as the headquarters of the tribe. The purpose of the meeting was to discuss the general management planning process underway and any concerns the tribal government, on behalf of the members of the tribe, might have about protecting, preserving, and managing the Preserve's cultural and natural resources.

The tribes were briefed on the scope of the planning project and the preliminary alternatives by newsletter and follow-up telephone calls soliciting comments. Oral comments by the tribes included recommendations to adopt alternative A with hunting and no proposed wilderness. Conversations have been ongoing throughout the planning process to inform the tribes about the progress of the plan and identify how and to what extent they would like to be involved.

The rights, privileges, concerns, and interests of the Preserve's American Indian neighbors are of fundamental importance to the NPS. It is therefore essential to strive for mutually acceptable arrangements on issues of concern to the NPS and the tribes. The tribes have been kept fully informed throughout the planning process and have been sent all newsletters and a copy of the *Draft and Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement*.

Seminole Tribe of Florida. A number of concerns, requests, and recommendations were stated in a letter dated September 30, 2009, from the law firm of Lewis, Longman & Walker, P.A., representing the Seminole Tribe of Florida.

The plan was revised to address their comments, and a copy of the *Final General Management Plan / Wilderness Study / Off-road Vehicle Management Plan / Environmental Impact Statement* was mailed to the Seminole Tribe of Florida on November 24, 2010.

Seminole Nation of Oklahoma. No comments were received from the Seminole Nation of Oklahoma.

Miccosukee Tribe of Indians of Florida. A consultation meeting for this project was held with the Miccosukee Tribe on September 24, 2009, where several concerns were raised.

The plan was revised to address their comments, and a copy of the *Final General Management Plan / Wilderness Study / Off-road Vehicle*

Management Plan / Environmental Impact Statement was mailed to the Miccosukee Tribe of Indians of Florida on November 24, 2010.

Communications with Other Native Americans

In addition to consulting with federally recognized tribes, the NPS met with the Council of the Original Miccosukee Simanolee Nation, Aboriginal People, in September 2009. The NPS received and considered comments from the council as well as from the Independent Traditional Seminole Nation of Florida and posted them on the NPS PEPC website.

Other Outreach Efforts

In addition to consultation required by law, the Preserve conducted outreach with various stakeholder groups and agencies. In April 2006 the Preserve convened a focus group meeting attended by representatives of the Florida-based recreational and environmental groups closely involved in the planning process. The purpose was to seek common ground between the polarized groups. In spring 2008 the Preserve met separately with stakeholder groups, congressional staff, agencies, and tribes, concluding with a joint stakeholder meeting in May 2008. Additional outreach with interested or affected parties will be continued during implementation of the plan.

CONCLUSION

As described in the "Mitigation" section, all practical means to avoid or minimize environmental harm from the selected alternative have been adopted. Because there will be no major adverse impacts to resources whose conservation is (1) necessary to fulfill specific purposes in the establishing legislation for the Addition; (2) key to the natural or cultural integrity of the Addition or to opportunities for enjoyment of the Addition; or (3) identified as a goal in relevant NPS planning documents, there will be no impairment of the Addition's resources or values. After a review of these effects, the alternative selected for implementation will not impair Addition resources or values and will not violate the NPS Organic Act.