



RECORD OF DECISION

Backcountry Access Plan / Wilderness Study Final Environmental Impact Statement Big Cypress National Preserve

INTRODUCTION

The US Department of the Interior, National Park Service (NPS), prepared this Record of Decision (ROD) on the final Environmental Impact Statement for a backcountry access plan/wilderness study (Plan/EIS) for Big Cypress National Preserve. This ROD has been prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended, its implementing regulations (40 Code of Federal Regulations [CFR] 1500-1508), the Department of the Interior's NEPA regulations (43 CFR 46), and NPS Director's Order 12: *Conservation Planning, Environmental Impact Analysis and Decision-making* and accompanying handbook. This ROD includes a summary of the purpose and need for action, synopses of alternatives considered and analyzed in detail, a description of the selected alternative, the basis for the decision, and a description of the environmentally preferable alternative. Citations can be found in the References section of the final Plan/EIS.

BACKGROUND

Big Cypress National Preserve (the preserve) was authorized by Congress on October 11, 1974, (Public Law [PL] 93-440) to include not more than 570,000 acres of land and water. This area is typically referred to as the original preserve. That law was amended on April 29, 1988, when Congress passed PL 100-301, the Big Cypress National Preserve Addition Act (Addition Act), to expand the preserve by 147,000 acres. This expansion area is referred to as the Addition. With the Addition, the preserve now encompasses 727,235 acres. The purpose of the preserve is to ensure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress watershed in the state of Florida and to provide for the enhancement and public enjoyment thereof.

Backcountry Access Plan

The NPS prepared a general management plan (GMP) for the preserve in 1991. One of the key recommendations of the GMP was to prepare a plan allowing off-road vehicle (ORV) and airboat use in the preserve while ensuring the natural and ecological integrity of preserve resources. Thereafter, the 2000 Recreational ORV Management Plan was prepared in accordance with a 1995 settlement agreement between the Florida Biodiversity Project and

several federal agencies and bureaus. The 2000 Recreational ORV Management Plan established a framework for a system of primary ORV, secondary ORV, and airboat trails and 15 primary access points. The incorporation of the 2000 Recreational ORV Management Plan into preserve policy effectively eliminated dispersed ORV and airboat use throughout the preserve. In addition to a designated system of trails, the 2000 Recreational ORV Management Plan established a framework for instituting temporary closures of the preserve backcountry when conditions were not compatible with recreational use, as during times of severe high or low water, hurricanes, and fires.

In 2007, the NPS reopened 35 miles of primary ORV trails and 9.4 miles of secondary trails in the Bear Island Unit of the preserve. In that same year, several nongovernmental organizations and individuals sued the NPS challenging this management decision as a violation of NEPA, the Endangered Species Act, several executive orders, and the 2000 Recreational ORV Management Plan. A July 2012 judicial opinion stated that the NPS's decision violated NEPA requirements because the NPS had failed to undertake a supplemental environmental analysis prior to reopening the trails. The judge ordered the trails in the Bear Island Unit closed, and the NPS complied, pending completion of further NEPA review.

In 2010, the NPS decided to reopen 83 miles of secondary ORV trails in the Turner River Unit. The following year, the service decided to open an additional 64 miles of secondary ORV trails in the Corn Dance Unit. ORV users were limited to primary and secondary trails, thereby eliminating dispersed use in these areas. The NPS was then sued in 2013 by several environmental organizations and individuals claiming that the opening of the network of secondary trails was in violation of NEPA and the 2000 Recreational ORV Management Plan. When the NPS issued its annual 60-day ORV trail closure notice in 2013, these secondary trails were also closed until additional NEPA planning efforts could be performed. A settlement agreement, which incorporated the closure notice, was finalized in September 2014.

Controversy surrounding the implementation of the 2000 Recreational ORV Management Plan has highlighted a need to clarify the meaning of various provisions, including, in particular, the definitions of "secondary ORV trail" and "destination." Likewise, the Bear Island and secondary trails litigation has created a need for NPS to determine which of the preserve's closed trails should be reopened. The Plan/EIS has been prepared, in part, to reevaluate the preserve's trail network, establish a system of secondary ORV trails, and define a set of destinations for the original preserve. The Plan/EIS also addresses the management of other backcountry activities in the preserve as a whole, including hiking and camping. The Plan/EIS does not specifically address the management of fishing, frogging, hunting, trapping, or Tribal customary use and occupancy. No actions shall affect the rights of use and occupancy by members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida, as guaranteed by the preserve's enabling legislation.

Wilderness Study

The NPS completed a wilderness study of the original preserve in 1979. The resulting wilderness recommendation (1980) found that no part of the original preserve was suitable for wilderness designation due to ongoing uses inconsistent with the Wilderness Act, such as dispersed ORV use and active oil and gas exploration/extraction. Today, however, dispersed use of ORVs has

been discontinued, numerous private inholdings have been acquired, and other nonconforming uses have been eliminated or dramatically reduced. In addition, NPS management policies have changed so that existing mineral rights and privileges do not necessarily exclude lands from consideration as wilderness (see NPS 2006a). Furthermore, NPS *Management Policies 2006*, section 6.2.1.2, specifically provides that “lands that have been logged, farmed, grazed, mined, or otherwise used in ways not involving extensive development or alteration of the landscape may also be considered eligible for wilderness designation, if, at the time of assessment, the effects of these activities are substantially unnoticeable, or their wilderness character could be maintained or restored through appropriate management actions.”

Given the improvement to wilderness character over large parts of the preserve since 1980 and based on comments received from the public during public scoping for the backcountry access plan, the National Park Service prepared a wilderness eligibility assessment for the original preserve in 2014. This assessment was completed in 2015.

(Note: A separate wilderness eligibility assessment and follow-up wilderness study had been completed for the Addition in 2010 as part of developing the Addition General Management Plan / Off-road Vehicle Plan / Wilderness Study (Addition GMP). The 2010 Addition wilderness study concluded that about 47,182 acres of the Addition should be proposed for wilderness designation. All proposed land in the Addition lies south of Interstate 75.)

In 2016, the NPS initiated a formal wilderness study of the original preserve and Western Addition to determine which parts, if any, should be proposed to Congress for inclusion in the national wilderness preservation system. As part of the wilderness study process, the NPS revised and refined the 2015 wilderness eligibility assessment, included as appendix E in the Plan/EIS. Using this revised assessment, the NPS then reviewed all eligible lands in the original preserve and Western Addition to develop alternatives for proposed wilderness, including a “no wilderness” alternative. Differing alternatives were developed based on management considerations and the results of the previous wilderness study of the Addition. The wilderness alternatives were then combined with the alternatives in the backcountry access plan based on the overarching concept of each alternative.

PURPOSE AND NEED FOR ACTION

The purpose of the Plan/EIS is to provide management guidelines for backcountry access and use while protecting the preserve’s natural and cultural resources and providing for public enjoyment. The Plan/EIS includes a wilderness study to determine what parts of the original preserve and Western Addition, if any, should be proposed for wilderness designation.

The Plan/EIS is needed to:

- Protect the preserve’s resources (e.g., habitat, wildlife, protected species) while providing for sustainable recreational backcountry use of the preserve in accordance with its enabling legislation.
- Evaluate potential alternatives for a secondary motorized trail network in the original preserve that provides sustainable access to backcountry destinations while protecting the natural and cultural resources of the preserve.

- Establish a permanent route for the Florida National Scenic Trail (FNST) and other nonmotorized recreational opportunities.
- Establish a management approach for backcountry camping as it relates to ORV/airboat use, hunting, hiking, and other activities.
- Clarify definitions of key terms (specifically, primary ORV trail, secondary ORV trail, airboat trail, and backcountry destination) within the 2000 Recreational ORV Management Plan and 2010 Addition GMP.
- Determine which parts of the original preserve and adjoining Western Addition are eligible for wilderness designation and which, if any, should be proposed for designation by Congress.

ALTERNATIVES CONSIDERED

Alternatives analyzed in the Plan/EIS were developed by the NPS and based on public scoping. The Plan/EIS evaluates four alternatives for hiking and ORV/airboat trails and backcountry destinations. The Plan/EIS evaluates several management approaches for backcountry camping in the preserve as it relates to ORV and airboat use, hunting, hiking, and other activities and clarifies definitions of key terms (specifically, primary ORV trail, secondary ORV trail, airboat trail, and backcountry destination) in the 2000 Recreational Off-Road Vehicle Management Plan and the Addition GMP. Wilderness proposals are included in two of the action alternatives. A detailed description of the alternatives carried forward is provided in chapter 2 of the Plan/EIS.

Alternative 1 (No-Action Alternative)

The no-action alternative would continue current management practices related to backcountry access in the preserve; this alternative provides a baseline for comparison in evaluating the changes and impacts of the other alternatives.

Under this alternative, the current system of primary ORV and airboat trails (a total of 278 miles) would remain unchanged, and no secondary ORV trails would be opened. Accordingly, ORV backcountry recreation access opportunities would be limited. ORV and non-ORV user groups would continue to share most of the same designated trail network.

There would be no changes to the current system of nonmotorized trails in the preserve, which comprises 63 miles of hiking trails (including the 36-mile Florida National Scenic Trail [FNST]) and 15 miles of canoe trails. The FNST would remain in its current alignment. The current annual 60-day ORV closure would remain in place.

Dispersed backcountry camping via foot or nonmotorized vessel would continue to be permitted in most of the preserve, except Bear Island. In Zone 4 of the Stairsteps Unit, airboat users would be required to camp at existing designated campsites. Backcountry camping permits would be required. Designated backcountry campgrounds would continue to be limited to the two current backcountry campgrounds in the Bear Island Unit and two primitive group camping

areas along the FNST. No new designated backcountry camping sites would be proposed over and above the existing 25 backcountry campsites/destinations.

No part of the original preserve or adjoining Western Addition would be proposed for wilderness designation by Congress. However, as required by NPS *Management Policies 2006*, all lands in the original preserve and Western Addition that have been found eligible for designation would be managed as wilderness.

Alternative 2

Alternative 2 offers visitors slightly increased access compared to the no-action alternative. The existing system of primary ORV and airboat trails, 278 miles total, would remain unchanged, as would the ORV/airboat permitting system. Street-legal vehicles would continue to be allowed on above-grade primary ORV trails in the Bear Island Unit but would be prohibited on at-grade primary ORV trails and all secondary ORV trails. Fifteen miles of secondary ORV trails would be opened (more than 94% of which would traverse highly resilient to resilient substrate types). The FNST would be realigned to improve the backcountry experience of hikers by separating ORV and non-ORV (e.g., hiking) users. The realigned route would be 44 miles long, up from 36 miles. All other hiking/canoeing opportunities would remain unchanged.

Twenty-four new backcountry destinations would be opened to accommodate camping, and one existing site in the Stairsteps Unit would be closed to protect resources. The 24 new destinations would augment the 24 existing backcountry campsites across the preserve, as well as the two backcountry campgrounds in the Bear Island Unit and the two primitive group camping areas along the FNST.

The camping stay limit would be 14 consecutive days, no more than 14 days in a 30-day period, and no more than 120 days in a calendar year. Under this alternative, all dispersed camping would be discontinued; camping opportunities would be provided at designated locations. A reservation system would be established for backcountry camping, and limitations on group size would be implemented.

The current annual 60-day ORV closure would remain in place, as would the nightly closure between the hours of 10:00 p.m. and 5:00 a.m.

Alternative 2 proposes that Congress designate approximately 190,528 acres of land (32% of the original preserve and adjoining Western Addition) as wilderness. The proposal generally covers the areas known as Mullet Slough, Deep Lake, Loop Unit, Stairsteps Zone 2, and the southeast corner of Stairsteps Unit Zone 4. The lands proposed for wilderness designation would be managed as wilderness consistent with NPS *Management Policies 2006*. Land found eligible but not proposed for wilderness designation would be managed to preserve their wilderness character. However, these lands would not be managed like designated wilderness; by NPS policy, activities proposed to occur on these lands would not be subject to a minimum requirement analysis.

Alternative 3

Alternative 3 would provide more backcountry access for visitors than alternative 2. It would reopen 15 additional miles of primary ORV trail and 39 additional miles of airboat trail on preexisting routes, bringing the total mileage of primary ORV and airboat trails in the preserve to 331 miles. Alternative 3 would also reopen 53 miles of secondary ORV trails. About 73% of the additional miles of primary ORV trail, over 99% of additional miles of airboat trail, and 91% of the additional miles of secondary ORV trail would traverse highly resilient to resilient substrate types. The approximately 39 miles of reopened airboat trail would be located in Stairsteps Unit Zones 3 and 4. Of the 15 reopened miles of primary ORV trail, 10 miles would link the Addition to the original preserve at Bear Island, and 3 miles would link the Addition to the original preserve through Mullet Slough. ORV/airboat permits would be capped at 2,000, and of those, 650 could authorize access to the Addition. Street-legal vehicles would be allowed on above-grade primary ORV trails in the Bear Island Unit and Northeast Addition but would be prohibited on at-grade primary ORV trails and all secondary ORV trails.

As in alternative 2, the FNST would be realigned to improve the backcountry experience of hikers by separating ORV and non-ORV users. The realigned route would be 44 miles long. The rest of the hiking trail system would be expanded by 114 miles compared to the no-action alternative for a total of 141 miles. Combined, hiking trails in the preserve (including the FNST) would total 185 miles.

Alternative 3 would open 87 new backcountry destinations in the original preserve and close one existing site in the Stairsteps Unit to protect resources. The 87 new sites would be in addition to 24 existing backcountry campsites across the preserve, the two backcountry campgrounds in the Bear Island Unit, and the two primitive group camping areas along the FNST.

This alternative would open a new backcountry campground in the Bear Island Unit on an elevated pad once used for petroleum production. This new campground would complement the two existing backcountry campgrounds in Bear Island. Dispersed backcountry camping via foot or nonmotorized vessel would be permitted throughout the preserve, including Bear Island. Airboat users in Zone 4 of the Stairsteps Unit would still be required to camp at designated campsites. As in alternative 2, the camping stay limit would be 14 consecutive days, no more than 14 days in a 30-day period, and no more than 120 days in a calendar year. While permits are required, no reservation system would be implemented for backcountry camping.

The annual 60-day ORV closure would be lifted throughout the preserve in favor of targeted closures of specific problem areas identified by staff. As in alternative 2, the ORV trail system would continue to be closed at night per the 2000 Recreational ORV Management Plan.

Alternative 3 proposes that Congress designate approximately 147,910 acres of land (25% of the original preserve and adjoining Western Addition) as wilderness. The proposal generally covers the areas known as Mullet Slough, Deep Lake, the Loop Unit, and the southeast corner of Stairsteps Unit Zone 4. The lands proposed for wilderness designation would be managed as wilderness consistent with NPS *Management Policies 2006*. Lands found eligible but not proposed for wilderness designation would be managed to preserve their wilderness character. However, these lands would not be managed like designated wilderness; by NPS policy,

activities proposed to occur on these lands would not be subject to a minimum requirement analysis.

Alternative 4 (Selected Alternative)

Alternative 4 is identical to alternative 3, minus the wilderness proposal. As with alternative 1, no part of the original preserve or adjoining Western Addition would be proposed for wilderness designation under this alternative. As required by NPS *Management Policies 2006*, all lands in the original preserve and Addition that have been found eligible but not proposed for designation would be managed to preserve their wilderness character. However, these lands will not be managed like designated wilderness; by NPS policy, activities proposed to occur on these lands would not be subject to a minimum requirement analysis. All other elements of alternative 3 remain the same for alternative 4.

SELECTED ALTERNATIVE

Upon consideration of the concern and issues raised during the planning and environmental impact analysis process, with due consideration of all public comments received during and since scoping, as well as for the Draft EIS, released in October 2020; Supplemental Draft EIS, released in August 2022; and Final EIS, released in November 2024, and in light of applicable laws, regulations, and NPS guidance, the NPS has selected alternative 4 (hereinafter referred to as the selected alternative), which achieves the best balance between increased public access and substrate sustainability while also being responsive to concerns received through Tribal consultation. The NPS received some comments after the Final EIS was released. The comments were considered but did not result in any changes to the Plan/EIS.

The selected alternative is a revised version of the NPS's preferred alternative in the 2022 *Backcountry Access Plan / Wilderness Study / Supplemental Draft Environmental Impact Statement*. Specific changes from that alternative include (1) the addition of approximately 3 miles of secondary ORV trails and four additional destinations that were generated by public comments, (2) adjustments to three ORV trails and one airboat trail to protect listed species resulting from consultation with the US Fish and Wildlife Service, and (3) a decision that no wilderness-eligible lands in the original preserve or adjoining Western Addition will be proposed for wilderness designation.

Implementation of the selected alternative will be subject to available funding and staff and will be in a phased manner as resources allow. Additional compliance will be completed as needed for actions requiring further refinement and site-specific analysis before implementation (e.g., the new Bear Island Unit campground). Preserve managers will create a strategy to guide the phased approach following this planning effort. Preserve staff will also seek assistance from stakeholder and volunteer groups in opening, marking, and maintaining ORV trails, airboat trails, destinations, and hiking trails. To increase a presence in the backcountry, preserve staff have recently reinstituted the "trail patrol" program, a group of volunteers who will be in the backcountry providing additional support to the Visitor and Resource Protection team. The individual elements required to implement the selected alternative are described below.

Reopening of Primary or Secondary ORV Trails, Airboat Trails, Nonmotorized Trails (including the FNST), and Destinations

Impacts on natural resources will be minimized by siting primary ORV, secondary ORV, and airboat trails on preexisting routes. These routes were closed under the 2000 Recreational ORV Management Plan and are proposed to be reopened under this Plan/EIS. All ORV trails, airboat trails, and destinations in this Plan/EIS will be sited on previously disturbed areas. ORV trails, airboat trails, and destinations will be reestablished by work crews using ORVs/airboats. Access will initially be from the existing network of primary ORV and airboat trails. Work will commence where access to the proposed reopened trail diverges from the existing trail network. Work crews will be required to clear the route of hazards (such as fallen trees), mark the route and destination, and trim vegetation to allow for safe user passage.

Hazard removal and vegetation trimming will occur within the footprint of the previously existing trail. The degree of hazard removal or vegetation trimming necessary to reestablish the trail will vary on a case-by-case basis, where some trails/destinations could be reestablished with relatively little removal or trimming, and others will require extensive removal/trimming. Hazard removal will be conducted by hand or, for vegetation trimming, with the assistance of hand tools, such as tree or shrub loppers, scythes, and mechanized equipment such as chain saws, weed eaters, and pole saws. Vegetation will be trimmed from the ground surface to avoid disrupting soils and root systems and up to 10 feet high (or high enough to allow the passage of airboats) to provide vertical clearance. For primary ORV, secondary ORV, and airboat trails, vegetation will be trimmed within a 12-foot-wide corridor. For nonmotorized trails, vegetation will be trimmed within a 5-foot- to 10-foot-wide corridor. At destinations, vegetation will be trimmed around likely tent pads, each pad estimated to be 10 feet by 20 feet (0.005 acre).

In some instances, fill material may need to be imported for maintenance of primary ORV trails to provide for safe visitor use of the trail and to minimize potential environmental consequences. Fill material may include soil, lime rock, or gravel; will be free of chemicals in hazardous amounts; and will be from a source deemed free of invasive nonnative vegetation. Fill will be transported to the site by dump truck. Stabilization will typically be done by a crew of two to four equipment operators using graders, tractors, and other assorted heavy equipment. Generally, fill material will be placed only to raise ground elevation of a trail to match the elevation of the area immediately adjacent to the trail and will minimize the potential for trail braiding or expansion. Fill in wetlands will be authorized by permit prior to construction.

Trail Markers and Signs

Trails and destinations will be clearly marked with signs. Signs will be installed at trail junctions and destinations, as necessary. Work crews will install signs by attaching them to existing vegetation (posting on trees) or by installing a sign and signpost into the ground using post hole diggers or hand augers (if necessary). Holes created for signposts placed into the ground will be backfilled with excavated material. The extent of area that will be disturbed by signposts will be less than 1 square yard, or 9 square feet, for each sign.

To comply with section 106 of the National Historic Preservation Act, ground disturbance will be monitored when installing markers and signs.

Routine Maintenance and Adaptive Management

Maintenance activities will routinely be conducted on all trails and destinations, including repairing and replacing trail markers. Some areas may require annual or semiannual maintenance, while other areas may not require maintenance for five or more years. Routine maintenance will largely consist of the same activities required to establish the trail. In addition to the activities described for reopening trails and destinations and installing trail markers and signs, adaptive management actions will be employed as described in the Plan/EIS. These actions are largely administrative but could also include the placement of additional signs or closing trails through the use of materials to construct a barrier or installation of rope or chain fences to bar users. Similar vegetation management may be conducted for spot trail repairs (typically completed by hand tools or electric or gas chain saws), minor rerouting to more sustainable substrate, and the placement of additional signs. In some instances, recontouring the trail may involve the placement of gravel or other soil material to stabilize the trail. Stabilization of primary ORV trails will typically be done by a crew of two to four equipment operators using graders, tractors, and other assorted heavy equipment.

Invasive Species Management

Adaptive management may require the use of herbicides to control infestations and the spread of nonnative vegetation. Actions will include the use of hand tools or mechanized equipment to remove invasive vegetation and could include the use of herbicide to control a population and prevent the establishment and spread of invasive species. Herbicide will only be applied under appropriate environmental conditions by a Florida certified pesticide applicator. The herbicide used will vary depending on the target species and will be appropriate for the environmental conditions (e.g., certified aquatic safe when working in wetlands). The long-term control and management of invasive nonnative plants is addressed by the South Florida and Caribbean Parks Exotic Plant Management Plan.

BASIS FOR DECISION

Alternative 4 is the selected alternative of the NPS because it (1) calls for increased access for both motorized and nonmotorized users, (2) achieves the best balance between increased public access and substrate sustainability, and (3) is responsive to the concerns expressed by the Seminole and Miccosukee Tribes during Tribal consultation. Alternative 3 would provide the same benefits as the selected alternative but with the inclusion of a wilderness proposal for 147,910 acres (25%) of the original preserve and Western Addition. Both alternative 3 and the selected alternative best meet the Plan/EIS need and objectives by dispersing visitor use among an increased number of primary ORV, secondary ORV, and airboat trails and destinations, thereby enhancing safety, especially during hunting season, and increasing visitor use and enjoyment. They also meet the Plan/EIS objective of establishing a primary ORV trail connection between the original preserve and the Addition.

Like alternative 3, the selected alternative will expand the preserve's trail systems, and the consequent visitor use, while avoiding impacts on 99.9% of the preserve. The trail system described in both alternatives is large enough to provide access to many of those parts of the preserve traditionally used by people in the past and sufficiently spread out to distribute users

safely over a large area during hunting season. At the same time, the selected alternative concentrates use on resilient and highly resilient substrate types and minimizes impacts on least resilient to unsuitable substrates. The selected alternative will also provide more total area for dispersed camping, which will reduce adverse impact intensity at destinations.

By largely siting ORV trails on resilient and highly resilient substrate types, impacts, such as rutting, channeling, and soil displacement, will be substantially limited. Unsuitable substrates, such as most prairies, will be avoided entirely for secondary ORV trails and, where included for a primary ORV trail (e.g., sections of connecting trails between the original preserve and the Northeast Addition), stabilization will be implemented as needed. The Plan/EIS provides the foundation to manage a sustainable trail system through adaptive management as outlined in Table 2-6 in the Plan/EIS, which includes such actions as trail stabilization, temporary or permanent closures, use limits, and the installation of additional markers to delineate inundated trail sections. While the selected alternative will expand the miles of ORV trails, the number of ORV permits issued will not change. Therefore, the trail system will better disperse users, expand their choices for destinations, and reduce the intensity of natural resource impacts, allowing trails and destinations time to recover.

Alternative 3 was the NPS preferred alternative in the Supplemental Draft EIS. However, many of the comments received since release of that document, including from Tribes, state agencies, local governments, and congressional delegates, have been in strong opposition to any wilderness proposal with concerns centered on the effect a wilderness proposal and subsequent wilderness designation may have on resource management and access, including by Tribal members.

The preserve has been a home to Indigenous peoples for centuries. Currently, there are 15 Miccosukee and Seminole active traditional villages in Big Cypress, more sites that are now considered historic cultural sites, multiple active ceremonial grounds, and active burial grounds scattered throughout the preserve. Based on information shared during Tribal consultation, the NPS understands that the Tribes' view is that it is not the presence or lack of human habitation that defines the health of a landscape but the relationship of humans to that land that determines the land's fate.

NPS Policy Memorandum 22-03 sets forth guidance on how the NPS will implement Secretary's Order No. 3403, *Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters*. This policy states that the NPS will give due consideration to Tribal recommendations and Indigenous knowledge in the planning and management of federal lands and waters. Per Executive Order 13007, "Indian Sacred Sites," the NPS will, to the greatest extent practicable, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical and spiritual integrity of such sacred sites; collaborate with Indian and other traditionally associated peoples who have identified sacred sites within units of the national park system to prepare mutually agreeable strategies for providing access; and enhance the likelihood of privacy during religious ceremonies.

The NPS engaged in formal consultation with the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, and the Seminole Nation of Oklahoma throughout the development

of the Plan/EIS. The NPS also formally consulted with these Tribes in writing on the topic of wilderness throughout the process and engaged in numerous informal conversations with Tribal members, the Miccosukee Business Council, and a number of staff members to include their attorney. Correspondence, including a letter from a coalition of national Tribes and Indigenous nonprofits, indicated the Tribes did not recommend nor support proposing or designating wilderness within the original preserve or Western Addition.

The Tribes' largest concern was that a wilderness proposal would risk the exclusion of Tribal members from accessing ceremonial grounds and sacred sites on wilderness lands by motorized means. Section 5 of the preserve's enabling legislation stipulates that Miccosukee and Seminole Tribal members "shall be permitted, subject to reasonable regulations. . . , to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve and the Addition, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials" (16 United States Code [USC] § 698j). While the NPS interprets this language to include motorized access within the definition of "usual and customary use" and interprets this statutory right of access as an existing right exempt from the prohibitions in 16 USC § 1133(c), the Tribes' concerns were not assuaged due to the seemingly conflicting language of the Wilderness Act in 16 USC § 1133(c).

The NPS also acknowledges the need to routinely access and/or take management actions on wilderness eligible lands within the preserve for resource management purposes, such as wildland and prescribed fire, invasive species management, and ecological restoration, including future manipulations to restore a more naturally functioning hydrologic regime, which were also concerns expressed by those opposed to wilderness designation. While many of these activities would not typically be an issue in wilderness because the NPS retains the management flexibility to act as necessary to preserve wilderness character provided the minimum activity is used, not proposing the lands as wilderness will likely provide the NPS with some greater degree of management flexibility to address resource management concerns in eligible wilderness. For this reason, as well as the continued access of wilderness eligible areas by Tribal members via motorized means and the concerns expressed by the Tribes regarding their continued access, the NPS decided to forego a wilderness proposal for the original preserve and Western Addition.

While taking into consideration the concerns expressed by the parties opposed to wilderness designation, the NPS also considered that the selected alternative still addresses the need to determine which parts of the original preserve and adjoining Western Addition are eligible for wilderness designation and, under the NPS's management policies, the NPS must manage those lands to preserve their wilderness character. Only Congress can designate wilderness and given the considerable opposition from the members of Florida's Congressional delegation, wilderness designation is unlikely.

Though wilderness-eligible lands will continue to be managed to preserve their wilderness character, these lands will not be managed like designated wilderness; by NPS policy, activities proposed to occur on these lands would not be subject to a minimum requirement analysis. The NPS acknowledges the concern that this may allow greater adverse impacts on wilderness character from potential future actions. However, any adverse impacts should be temporary and/or removable. The lands remain protected by the NPS's Organic Act and subject to the NPS

management policies, under which the NPS routinely mitigates for impacts on preserve resources. Further, while the selected alternative does not include a wilderness proposal, the wilderness study helped inform where to place certain activities in a way that is sustainable over the long term without affecting the integrity of the most delicate and primitive areas of the preserve. As a result, there are no wilderness-eligible lands in conflict with routes authorized for ORV traffic under the selected alternative.

The NPS did not select alternative 1 (the no-action alternative) because it would not address the purpose and need for the Plan/EIS or meet Plan/EIS objectives. Under alternative 1, ORV and airboat use would continue along existing primary ORV and airboat trails. No additional primary ORV trails, secondary ORV trails, or airboat trails would be reopened, and no new designated backcountry camping sites would be proposed over and above the existing 25 backcountry campsites/destinations. This lack of access would continue to affect visitor safety by limiting the ability to adequately disperse visitors within the preserve during hunting seasons. Participants in motorized and nonmotorized recreation would continue to share the same trail network, including along the FNST, which would remain in its current alignment.

Alternative 2 offers visitors increased access compared to the no-action alternative via a small network of secondary ORV trails. The network is small because it is restricted to mostly highly resilient to resilient substrates. Over 94% of the proposed secondary ORV trail system in this alternative would traverse highly resilient to resilient substrate types. Alternative 2 would afford better protection of natural and cultural resources than the selected alternative and would see the largest amount of wilderness proposed among the alternatives (approximately 190,528 acres or 32% of the original preserve and adjoining Western Addition)—thus, it is identified as the environmentally preferable alternative. However, alternative 2 proposes substantially fewer opportunities for recreation (i.e., use and enjoyment) than the selected alternative and fails to meet the Plan/EIS need of providing safe access to backcountry destinations. One of the objectives of the proposed secondary trail network is to disperse motorized use during hunting season to enhance visitor safety. While the network of secondary ORV trails in alternative 2 does a better job of addressing the Plan/EIS purpose and need than alternative 1, it fails to meet this important objective. Alternative 2 would also include a wilderness proposal, which the NPS has decided not to proceed with for the reasons outlined above.

The selected alternative is supported by the best available information. It achieves the best combination of increased visitor access, long-term resource protection, and management discretion and flexibility while being responsive to the concerns expressed by affiliated Native American Tribes and other stakeholders. For these reasons and those set forth above, the NPS selected alternative 4 for implementation.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

The NPS is required to identify the environmentally preferable alternative in the ROD for public review and comment. The NPS, in accordance with the NEPA regulations, defines the environmentally preferable alternative (or alternatives) as the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources (43 CFR 46.30).

The identification of the environmentally preferable alternative was based on analyses that balance factors such as physical impacts on various aspects of the environment, mitigation measures to minimize impacts, and other factors, such as the statutory mission of the NPS and the purpose for the Plan/EIS. After completing the environmental analysis, NPS identified alternative 2 as the environmentally preferable alternative. Overall, alternative 2 is the alternative that causes the least amount of impact on the biological and physical environment and that protects, preserves, and enhances cultural and natural resources. Alternative 2 also proposes the largest amount of eligible acres for wilderness designation (32% of the original preserve and adjoining Western Addition). On the other hand, alternative 2 would not support reasonable access to destinations as well as other alternatives. Alternative 2 only slightly increases access for motorized and nonmotorized users and discontinues all dispersed camping. By limiting overall use levels, alternative 2 does not attain the widest range of beneficial uses of the environment nor achieve a balance between population and resource use. Nevertheless, alternative 2 is the environmentally preferable alternative because it would have the fewest adverse impacts on the biological and physical environment and would best protect, preserve, and enhance cultural and natural resources.

Alternative 2, while it meets the criteria for the environmentally preferable alternative, is not the selected alternative. The National Park Service has chosen alternative 4 as the selected alternative (see “Basis for Decision” above).

MITIGATION MEASURES

Under its Organic Act, the NPS has the authority to develop and direct mitigation for impacts on resources under its jurisdiction. This authority is in addition to the requirements that may be created through the need to comply with laws and regulations managing resource impacts that are overseen by other agencies. To meet these obligations, the NPS has developed management policies and director’s orders that identify the authorities (laws, regulations, and executive orders) directing how impacts and mitigation to resources will be managed, as well as identify the policies and procedures by which the NPS will comply with these authorities. A full listing of the NPS policies is available on the NPS Office of Policy website at <https://npspolicy.nps.gov/index.cfm>.

To avoid, minimize or mitigate impacts, the following strategies will be used during or following the implementation of the selected alternative to protect natural resources, cultural resources, and other values as described below. See also section 2.10 of the Plan/EIS. All protection measures will be clearly stated in the construction specifications/special construction requirements.

General

- Signs or other means will be used to protect sensitive resources on or adjacent to trails and destinations.
- The trail alignments shown on the selected action map (attachment B) are based on a geographic information system (GIS) analysis and extensive field observations. Final alignments are subject to additional ground truthing. Trails and destinations will be

established in previously disturbed areas to the maximum extent possible. In some areas, reroutes or slightly different trail alignments or destinations may be needed based on local conditions, such as the presence of sensitive resources. Final trail alignments and destinations will be reviewed by the preserve's natural and cultural resources experts in the field to ensure impacts on sensitive resources are avoided or minimized before trails and destinations are opened for public use. If sensitive resources are discovered during trail or destination opening or maintenance events, closure will occur and the area surveyed in more detail so that impacts can be avoided or minimized and/or an alternate route can be established.

- Visitors will be informed of the importance of protecting the preserve's natural resources and leaving these undisturbed for the enjoyment of future generations. Leave No Trace and Tread Lightly materials will be posted at the visitor centers and online and distributed as appropriate.
- Impervious surfaces will not be used on trails or at destinations.

Vegetation and Habitat

- Areas used by visitors (e.g., trails, destinations) will be monitored for signs of disturbance to native vegetation. Public education through the development and distribution of pamphlets and signs, the implementation of erosion control measures, and the installation of barriers will be used to control potential impacts on vegetation from erosion.

Nonnative and Invasive Species

- Special attention will be devoted to preventing the spread of nonnative and invasive species along trails and at destinations. Standard measures could include identifying and treating areas of nonnative plants before trail and camping improvements are made, treating infested areas as part of regular trail and destination maintenance, and revegetating treated areas with native species as appropriate.

Wetlands

- Prior to construction, wetlands will be delineated and marked by qualified NPS staff or a certified wetland specialist.
- All pathway construction facilities will be sited to avoid wetlands, or if that is not feasible, to otherwise comply with Executive Order 11990, "Protection of Wetlands," the Clean Water Act, and NPS Director's Order 77-1: *Wetland Protection*.
- Standard avoidance, minimization, and mitigation strategies will be employed.
- Wetlands will be avoided during construction, using bridge crossing or retaining walls whenever possible. Increased caution will be exercised to protect these resources from damage caused by construction equipment, erosion, siltation, and other activities with

the potential to affect wetlands. Measures will be taken to keep construction materials from escaping work areas, especially near streams or natural drainages.

- Any footbridges will be designed in such a way as to completely span the channel and associated wetland habitat (i.e., no pilings, fill, or other support structures in the wetland/stream habitat). If footbridges cannot be designed in such a way as to avoid wetlands, then additional compliance (e.g., a wetland statement of findings) will be performed to assess impacts on wetlands and ensure no net loss of wetland area.
- To prevent the disruption of natural surface water flows, all trails that will receive ORV, hiking, biking, or riding use (for NPS operations or public use) will be maintained so the trail surface is generally kept at the natural grade of the surrounding landscape. Techniques to help mitigate trail rutting could include “at-grade” maintenance, “spot” trail stabilization with aggregate material, the use of culverts, and low-water crossings. These measures will help preserve the natural sheet flow through the preserve at a local and regional level. In addition, if trail conditions eventually became degraded in areas and surface flow became altered, the indicator thresholds and adaptive management actions will be applied, as described in section 2.9 and Table 2-6 of the Plan/EIS, to remedy the situation and restore surface water flows.
- Best management practices for water quality protection will be followed to ensure that effects from trail and camping improvements are minimal and to prevent long-term impacts on water quality, wetlands, and aquatic species.
- All vegetation clearing or deposition of fill in wetlands resulting in loss of wetland function will be compensated for via mitigation to result in no net loss of wetland function. Deposition of fill will only take place on primary ORV trails.

Special Status Animal Species

- In consultation with the US Fish and Wildlife Service and Florida Fish and Wildlife Conservation Commission and in accordance with their guidelines and recommendations, appropriate measures will be taken to protect special status species, whether identified through surveys or presumed to occur in areas that contain suitable habitat characteristics.
- Trails and destinations will be sited to avoid sensitive wildlife habitats and known sensitive locations (e.g., Florida bonneted bat roost trees), including the following:
 - A 200-foot buffer will be established around red-cockaded woodpecker cavity trees. Woodpecker cavity trees in the vicinity of trails and destinations will be painted with a white band.
 - Buffers of 330 feet will be established around wading bird colonies for both ORV trails and destinations.
 - To protect the threatened Eastern indigo snake, a qualified ecologist will scout trail areas for burrows that may indicate the presence of gopher tortoises,

burrowing owls, or Eastern indigo snakes. If a burrow is discovered by the ecologist, no field equipment would be driven within 50 feet of the burrow.

- Prior to opening any trails or destinations, qualified NPS staff will survey the area for federally listed plant species. If plants are observed, the trails/destinations will be sited to avoid the occurrence by at least 150 feet or will not be reopened. If any federally listed plant species are newly discovered after an area has been reopened, the trail will be closed. The NPS will maintain up-to-date information on these species and coordinate with staff managing trail maintenance to avoid impacts on individual plants from trail maintenance activities.
- Implementation of the selected action and associated activities required to reopen trails and complete maintenance will be timed to avoid sensitive periods, such as nesting or breeding seasons. This includes avoiding tree removal and limb trimming during tricolored bat pup season (May 1 to July 15) and minimizing trail maintenance activities to the greatest extent possible during tricolored bat breeding season (April 15 to August 15).
- Overhanging vegetation will be hand and mechanically trimmed along the trails and destinations, leaving potential suitable habitat for special status species untouched. While removing trees is not anticipated to be necessary to establish and maintain the trails and destinations, no trees having a visible cavity will be removed and no removal of trees > 8 inch diameter at breast height, snags 15 feet or higher, or any trees > 30 feet in height will occur. When feasible, tree trimming will be avoided on days when daytime ambient temperatures are below 40 degrees Fahrenheit to protect species.
- Measures will be taken to reduce the potential for wildlife to obtain food from humans. Wildlife-proof garbage containers will be provided where wildlife-human interactions are documented or observed, as needed. Signs will continue to educate visitors about the need to refrain from feeding wildlife.

Natural Soundscapes

- Standard noise abatement measures will be followed during trail and destination improvements, reopening, and maintenance. Standard noise abatement measures could include a schedule that minimizes impacts on adjacent noise-sensitive resources, the use of electric power tools, and the use of the best available noise control techniques (wherever feasible).

Cultural Resources

- In compliance with section 106 of the National Historic Preservation Act, the NPS will ensure that all practical measures will be taken to avoid, minimize, or mitigate adverse effects in consultation with the Florida State Historic Preservation Officer (SHPO) and, as necessary, the Advisory Council on Historic Preservation, Native American Tribes, and other concerned parties. In addition to adhering to the legal and policy requirements

for cultural resources protection and preservation, the National Park Service will also undertake the measures listed below to further protect the preserve's resources:

- Visitors will continue to be educated on the importance of protecting the preserve's cultural resources and leaving these undisturbed for the enjoyment of future visitors.
- Areas for any trail improvements will be surveyed to ensure that any previously unidentified cultural resources (i.e., archeological, historic, ethnographic) in the area of potential effects are adequately identified and protected by avoidance or, if necessary, mitigation.
- If, during ground-disturbing activities, previously unidentified archeological resources are discovered, all work in the immediate vicinity of the discovery will be halted until the resources can be identified and documented. If the resources cannot be preserved in situ, an appropriate mitigation strategy will be developed in consultation with the SHPO and, if necessary, federally recognized Indian Tribes and associated groups. Archeological documentation will be done in accordance with the Secretary of the Interior's Standards for Archeology and Historic Preservation (1983, as amended).
- In the unlikely event that human remains believed to be Native American are discovered during ground-disturbing activities, compliance with the Native American Graves Protection and Repatriation Act of 1990 will apply. Prompt notification and consultation with the federally recognized Tribes will occur in accordance with the act. If such human remains are believed to be non-Indian, standard reporting procedures to the proper authorities will be followed, as will all applicable federal, state, and local laws.
- The preserve will otherwise implement the Programmatic Agreement among the National Park Service Big Cypress National Preserve; the Florida State Historic Preservation Officer; and the Seminole Tribe of Florida regarding the implementation of the *Big Cypress National Preserve Final Backcountry Access Plan/Wilderness Study / Environmental Impact Statement*; and the *Big Cypress National Preserve – Addition Final General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan / Environmental Impact Statement*, included as appendix G to the Plan/EIS.

CONCLUSION

Overall, of the four alternatives considered, the selected alternative (alternative 4) best meets the purpose and need of the Plan/EIS while being responsive to the concerns expressed by affiliated Native American Tribes and other stakeholders. The selected alternative fulfills the NPS's statutory mission and responsibilities, considering environmental, economic, technical, and other factors, and incorporates all practical means to avoid or minimize environmental harm and will not result in the impairment of park resources or values or violate the NPS Organic Act.

The required “no-action period” before approval of the ROD was initiated on November 8, 2024, with the US Environmental Protection Agency’s *Federal Register* notification of the filing of the final Plan/EIS (Vol. 89 No. 217, page 88764). The official responsible for implementing the selected alternative is the Big Cypress National Preserve superintendent.

AUTHORIZATION

Recommended:

Thomas P. Forsyth
Superintendent
Big Cypress National Preserve

Date

Approved:

Mark A. Foust
Regional Director
National Park Service, Interior Region 2

Date

APPENDIX A: NON-IMPAIRMENT DETERMINATION

This non-impairment determination has been prepared for the selected alternative, as described in the Record of Decision for the final Supplemental Environmental Impact Statement for a backcountry access plan/wilderness study at Big Cypress National Preserve (Plan/EIS).

By enacting the NPS Organic Act of 1916 (Organic Act), Congress directed the US Department of the Interior and the NPS to manage units “to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (54 USC 100101).

NPS *Management Policies 2006*, section 1.4.4, explains the prohibition on impairment of park resources and values:

While Congress has given the Service the management discretion to allow impacts within parks, that discretion is limited by the statutory requirement (generally enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

As stated in section 1.4.5 of *NPS Management Policies 2006*, an action constitutes impairment when its impacts “harm the integrity of park resources or values, including the opportunities that otherwise will be present for the enjoyment of those resources or values.” To determine impairment, the NPS must evaluate the “particular resources and values that will be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts.”

Units of the national park system vary based on their enabling legislation, natural and cultural resources present, and mission. Likewise, the activities appropriate for each unit and for areas in each unit also vary. For example, an action appropriate in one unit could impair resources in another unit.

As stated in section 1.4.5 of *NPS Management Policies 2006*, an impact on any park resource or value may constitute an impairment, but an impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- identified in the park’s general management plan or other relevant NPS planning documents as being of significance.

The enabling legislation for Big Cypress National Preserve (Public Law 93-440) established the preserve to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof. The following sections discuss the significance and importance of each resource at Big Cypress National Preserve that has the potential to be affected by the NPS selected alternative in a more than minor way.

The resource topics carried forward and analyzed for the NPS selected alternative and for which an impairment determination is made are soils, vegetation and habitat, wetlands, special status plant and animal species, ethnographic and archeological resources, and natural soundscapes. A non-impairment determination is not made for visitor use and experience and wilderness character because these impact topics are not generally considered park resources or values subject to the non-impairment standard established by the Organic Act and clarified further in section 1.4.6 of NPS *Management Policies 2006*. A description of the current state of each resource topic evaluated for impairment can be found in chapter 3 of the Plan/EIS. Each resource or value for which non-impairment is assessed and the reasons why impairment will not occur are described below.

Soils

Soils are important to the preserve's purpose and significance as they provide the foundation for the vegetation and wetlands characteristic of the preserve as a whole. The soil substrates underlying the various vegetation communities in the preserve range from unsuitable for recreational use to highly resilient for recreational use. Under the selected alternative, off-road vehicle (ORV) use and backcountry camping will be the main actions causing impacts on soils.

Establishing a designated trail system has prevented dispersed use and concentrated impacts along established trails, which can be monitored and managed. Data on historical impacts and subsequent monitoring of trails demonstrate the long-term impacts of ORV use on the shallow soils in the preserve. Impacts are easily observable and range from exposed bedrock, rutting and ridging of soils, and water channelization to lateral expansion of trail network by users as they avoid areas that are excessively muddy or rutted. Because of the fragile nature of certain soil substrates in the preserve, substrate types, their associated habitat type, and their respective ability to withstand ORV use are the key factors for determining sustained ORV and recreational use.

The reopening of primary ORV, secondary ORV, and airboat trails—and the consequent visitor use—will affect less than 0.1% of the preserve. The majority of trails and all destinations are located in highly resilient to resilient substrates. The greatest potential for soil impacts occurs when trails are located in the least resilient to unsuitable substrate types. Based on an average 12-foot width, the amount of primary, secondary, and airboat trails traversing least resilient to unsuitable substrates will occur on 49 miles of trail or approximately 0.01% of the preserve's acreage. Forty of these miles are associated with the existing ORV trail system.

The use of 24 existing and 87 proposed backcountry destinations will lead to denuded and/or trampled vegetation, adversely affecting a total area of 0.54 acres based on an average affected

area of 10 × 20 feet or 0.005 acres—a very small amount compared with the size of the preserve. These impacts will continue as long as visitor use continues. The availability of a large total area for dispersed camping under the selected alternative will reduce the intensity of adverse impacts at destinations, resulting in beneficial impacts on soils. If preserve staff detect impacts resulting from dispersed camping, adaptive management will be implemented, as identified in Table 2-6 of the Plan/EIS, to ensure indicators do not exceed established thresholds.

While there is the potential for adverse impacts on soils from backcountry camping and the use of reopened trails, impacts will be limited to a small percentage of the preserve, and disturbances primarily affect resilient soil types. Therefore, the selected alternative will not result in impairment of soils.

Vegetation and Habitat

Seven major vegetation communities can be found in the preserve: (1) cypress systems, (2) freshwater forested wetlands, (3) freshwater nonforested wetlands (including prairies and marshes), (4) shrublands, (5) pine flatwoods, (6) hardwood hammocks, and (7) marine and estuarine vegetated wetlands (including mangroves). Disturbed areas can also be found throughout the preserve and are intermixed within these vegetation communities. Numerous protected plant species can be found within these vegetation communities, as well as species that serve as habitat for the protected animal species that use the preserve. To reduce redundancy, vegetation types associated with wetland communities and special status species are addressed under those resource topics. The remainder of the preserve comprises a mosaic of habitats, including pine flatwoods, hardwood hammocks, and disturbed areas. These habitats make up 16%, 5%, and 1% of the preserve, respectively.

Adverse impacts will result from trail opening and maintenance (e.g., hand and mechanical trimming of overhanging vegetation), NPS administrative ORV use (e.g., law enforcement and land management), and visitor use. These actions will result in the trampling of vegetation in the trail corridor and trimming and removal of vegetation but will not include the removal of rooted vegetation except in special circumstances. All ORV trails and destinations have been used by motorized recreational user groups in the past and are currently disturbed. Among other things, this means there will be little to no root removal needed during ORV trail reopening and maintenance. Minimal, if any, root removal will be needed during the opening of new hiking trails. Therefore, the geographic extent of impacts is relatively small.

The adverse effects of ORVs on vegetation and habitat are largely based on diminished habitat value or habitat displacement (due to loss of vegetation), which will be limited to a 12-foot-wide denuded swath in designated ORV trails and a 10-foot-wide swath in nonmotorized trails. Under the selected alternative, there will be 138 miles of designated ORV trail and 43 miles of nonmotorized trails in pine flatwoods. This represents an increase of 39 and 23 miles, respectively, relative to current conditions. In hammocks, designated ORV trails and nonmotorized trails will total 16 and 17 miles, respectively; increases of 2 and 13 miles compared to existing conditions. Under the selected alternative, edge effects along trails, such as injury to a plant or group of plants or plant loss in a discrete area due to repeated use and trampling, will occur on about 7 miles (10 acres) and 0.85 miles (1.24 acres) of trail in pine flatwood and

hammocks, respectively (5% of ORV trail system in each habitat type)—a small overall area considering the total size of the preserve.

Visitor use of backcountry destinations may cause denuded or trampled pineland vegetation, resulting in a disturbance to a small area considering the amount of pineland vegetation in the preserve. Other than the eight existing destinations, no new destinations will be located in hammock habitat. Even though nonnatives are spread by natural events (such as hurricanes) and animals (such as raccoons and birds), there are indications that ORVs have resulted in the spread of nonnative and invasive plants within the preserve. ORVs transport seed in their tire treads and vehicle beds and distribute it in currently unaffected areas of the preserve as they travel. The opening of additional secondary trails and destinations will increase the potential for nonnative and invasive plant seed dispersal. Dispersed camping will also result in a small increased threat to native plant communities by increasing the potential spread of nonnative and invasive species.

If necessary, adaptive management actions identified in Table 2-6 of the Plan/EIS will be implemented and trail closures and other management actions will allow pinelands to recover naturally. Overall, the great majority of the pinelands and hammocks (over 99.9%) will be unaffected by the selected alternative.

While there is the potential for adverse impacts on vegetation and habitat from trail opening and maintenance, NPS administrative ORV use, and visitor use, impacts will be limited to a small percentage of the preserve, will primarily occur in previously disturbed areas, and will not result in removal of rooted vegetation except in special circumstances. Therefore, the selected alternative will not result in impairment of vegetation and habitat.

Wetlands

Wetland communities, which comprise over 80% of the lands within the preserve, include cypress domes, cypress strands and sloughs, freshwater forested wetlands, shrublands, prairies, and marshes. Wetlands are formed by the area's topography and the presence of water; they influence the nature and development of the soils and the types of plant and animal communities present. No activities in the selected alternative will result in the conversion of wetlands to either impervious surface or an alternative habitat type.

The ORV trails, airboat trails, and backcountry destinations proposed in the selected alternative have been used by motorized or nonmotorized recreational user groups in the past and are currently disturbed areas. The extent, occurrence, and severity of effects that ORVs have on wetlands are largely attributed to ruts that can channel water, which have the potential to alter water depths and inundation durations, thereby affecting the diversity of vegetation. Trails that become extensively rutted and oriented parallel to natural flow would drain surface water from an adjacent wetland, particularly in low-lying marshes and prairies in the preserve.

Under the selected alternative, visitor use, and ORV use in particular, will result in adverse impacts. Spot stabilization on primary ORV trails may involve small amounts of fill, typically along less than 30 linear feet of trail. Placing fill will result in small losses of wetland acreage and function. Effects on wetland function will be mitigated via the restoration of other, degraded

wetlands or by some other appropriate activity. Combined, the effects of the selected alternative will only degrade a small amount (0.01%) of wetland, with the great majority (greater than 99.9%) of the wetlands in the preserve continuing to provide natural wetland functions and services.

Airboat use can affect wetland integrity if vessels scrape bottom or create currents at low water that disturb wetland substrates. Regular airboat use on trails can adversely affect wetland vegetation over the long term by preventing the regrowth of such vegetation within the trail footprint. Under the selected alternative, airboat use will continue to affect vegetation in this way for so long as designated airboat trails remained in use. However, airboat use will have little impact on wetland substrates so long as use took place at authorized water depths.

Preserve staff will monitor conditions of wetlands and require adaptive management per Table 2-6 in the Plan/EIS if unacceptable conditions are identified. Ongoing vegetation management, including the use of prescribed fire and efforts to restore natural hydrologic processes, will continue to improve conditions for native wetland vegetation because water availability and connectivity will increase, and plant diversity will be enhanced. These efforts result in beneficial impacts on wetlands and increase their function and value.

Under the selected alternative, dispersed camping will be allowed in all units of the preserve. This strategy will increase the magnitude of adverse impacts on wetlands while reducing the intensity of impacts at individual sites. Dispersed camping will also reduce the NPS's ability to regularly monitor and undertake corrective actions.

While there will be the potential for ongoing impacts associated with vegetation loss and exposed wetland soils, these impacts are expected to be of limited scale, duration, and intensity. Therefore, the selected alternative will not result in the impairment of wetlands.

Special Status Plant and Animal Species

Thirty-one animal species that could occur in the preserve receive some level of special protection or are recognized as rare species by the State of Florida or the federal government. Eleven of these 31 species (including one proposed) are listed as either endangered or threatened under the Endangered Species Act. Two plant taxa and one plant species are likewise listed as either endangered or threatened under the Endangered Species Act. These species employ a wide range of survival strategies and are dependent on a variety of habitats.

Under the selected alternative, ORV/airboat use and visitor use of trails in the backcountry and dispersed camping activities will have small adverse impacts on the Florida panther, red-cockaded woodpecker, Eastern indigo snake, Florida bonneted bat, and Eastern black rail. The adverse impacts will primarily result in habitat and visual/noise disturbance, which may result in the disruption of breeding, foraging, or dispersal behaviors and may affect species' home range or displace individuals. Most of the species affected are highly mobile and will have access to a wide variety of high-quality habitats in the preserve to carry out their life history requirements. For all five species, this is a small area of disturbance, amounting to less than 1% of the total amount of suitable habitat for these species in the preserve. Over 99% of the suitable habitats for these special status species will not be affected.

Most of the impacts on special status wildlife will occur for a short duration (less than five minutes as an ORV or visitor on foot passes by) but may reoccur throughout the day. During periods of heavy visitor use (particularly during hunting season), ORV use, extended and dispersed camping, and the sound of gunfire may increase the magnitude and duration of the short-term effects, resulting in more pronounced effects on special status species. While these disturbances might reoccur, they are not expected to adversely affect the red-cockaded woodpecker, Eastern indigo snake, Florida bonneted bat, or Eastern black rail because, given the relatively low number of permits issued by the preserve, the total number of passes is likely to be small.

For the Florida panther, opening trails and areas to ORV and visitor use, including camping, can result in changes to a panther's daily movement and dispersal patterns. However, the nocturnal behavior of panthers reduces the overall likelihood of panther disturbance due to the nightly ORV closure. Another species, the tricolored bat (proposed for listing), will also benefit from the nightly closure during which time the species forages closer to the ground. However, the possibility of ORV collisions with listed species is deemed to be low because of the low speeds of ORVs over generally rough trail surfaces. The removal of the 60-day closure will result in an increased potential to impact special status species (in particular, the red-cockaded woodpecker and Florida panther). However, given low visitor use rates during the hot summer months, the amount of additional exposure of special status species to ORVs or airboats is expected to be low.

As for special status plant species, there is currently only one known population of Florida prairie clover in the Preserve, located immediately adjacent to an existing primary ORV trail. Everglades bully and Florida pineland crabgrass are known to occur near several of the proposed trails. Impacts on suitable habitat could occur during reopening of trails/destinations and ongoing operation. However, any such impacts are expected to be limited to the immediate area of trails and destinations. Because heavily impacted areas will be closed or rehabilitated, this impact is considered temporary.

Various mitigation measures and adaptive management strategies will be employed to minimize impacts on special status species, including siting or closing trails to avoid sensitive habitats, timing clearing and maintenance activities to avoid sensitive periods, avoiding removing trees suitable for roosting/nesting, and using standard noise abatement measures.

Due to minimal impacts on suitable habitat and the incorporation of avoidance and minimization measures, the NPS determined that the selected action will not result in the impairment of special status species.

Ethnographic and Archeological Resources

Continued visitor use in the preserve presents a potential for adverse impacts on cultural resources (both archeological and ethnographic resources) as a result of ground disturbance and trampling, which in turn can result from off-trail ORV use, dispersed camping, and vandalism/looting. The intensity of impacts on cultural resources will depend on the potential of the resource to yield important information or provide importance to an ongoing cultural tradition, as well as the extent of the physical disturbance, damage, or degradation.

Under the selected alternative, dispersed camping and additional primary ORV, secondary ORV, airboat, and hiking trails will increase the potential for adverse direct impacts on cultural resources across a larger geographic footprint. Although known archeological and Native American ceremonial sites were avoided when siting the proposed trail and destination locations, it remains possible that unidentified sites could be encountered and subsequently impacted unintentionally. However, the overall likelihood of adverse impacts on cultural resources will be quite small, given the known rate of past incidences and the commitment of the preserve to implement the Programmatic Agreement among the National Park Service Big Cypress National Preserve; the Florida State Historic Preservation Officer; and the Seminole Tribe of Florida regarding the implementation of the *Big Cypress National Preserve Final Backcountry Access Plan/Wilderness Study/Supplemental Environmental Impact Statement* and the *Big Cypress National Preserve – Addition Final General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement*.

The opening and maintenance of additional primary ORV trails, secondary ORV trails, airboat trails, and destinations will involve minimal ground disturbance. Apart from the proposed reopened primary ORV trails, parts of which will likely require stabilization, there will be no “trail construction” per se because the trail locations are already disturbed from previous use. Actions required to open and maintain trails and destinations will mainly include trimming vegetation, removing obstacles like fallen trees, and emplacing trail signs and markers. An archeological survey and section 106 consultation will be conducted before any ground disturbance, and work will be adjusted to avoid or mitigate impacts on any identified sensitive resources.

Section 106 Summary. The National Park Service has determined that effects cannot be fully determined before the approval of the EIS and under 36 CFR 800 Subpart C 800.14(b)(1)(ii), “when effects on historic properties cannot be fully determined before approval of an undertaking, the agency may enter a programmatic agreement to address how section 106 of the National Historic Preservation Act will be completed for the undertaking.” Therefore, the National Park Service has developed a Programmatic Agreement pursuant to 36 CFR 800.14(b)(3) to adopt an alternative, phased approach to compliance with section 106 of the National Historic Preservation Act (NHPA)—see appendix G of the Plan/EIS. Commitments identified in the Programmatic Agreement, including the identification and evaluation of historic properties located within the area of potential effect (APE), application of measures to avoid and/or minimize adverse effects on historic properties, and following resolution procedures when actions may adversely affect historic properties, ensure that the selected alternative will not result in impairment of ethnographic and archeological resources.

Natural Soundscapes

The primary sources of human-caused noise in the preserve are ORV noise; airboat travel; and vehicular traffic along US 41, I-75, and other roadways. The selected alternative will not alter the natural soundscapes near US 41 or I-75. Vehicular traffic will continue to affect the soundscape adjacent to these roadways.

Under the selected alternative, intermittent ORV and airboat noise will affect natural soundscapes along reestablished primary ORV, secondary ORV, and airboat trails, resulting in a

small adverse impact for visitors and animals. The area impacted will be approximately 30% of the original preserve—an 8% increase over existing conditions. In most cases, ORV noise will last no more than three minutes (the time a terrestrial vehicle is audible from a given point on the ground). Airboat noise can travel for a longer distance than ORV noise but will be contained in the Stairsteps Unit Zones 3 and 4, where there are sustained water levels for airboat use. Along some popular primary and secondary trails, the frequency of soundscape disturbance may be higher due to more traffic.

The realignment of the Florida National Scenic Trail (FNST) will separate nonmotorized and motorized trail users in most areas. This separation will decrease the frequency and intensity of motor vehicle noise encountered by hikers on the FNST. Additional nonmotorized trails will provide visitors with greater access and exposure to natural soundscapes (by reducing the potential for encounters with ORVs and other types of vehicular noise). These additional trails will result in a beneficial impact on visitors.

The selected alternative will provide opportunities for visitors to experience natural soundscapes by allowing dispersed camping throughout the preserve, including the Bear Island Unit. Dispersed campers will have to leave their ORVs next to trails, which will limit any soundscape disturbance for animals. Similar benefits will accrue from the requirement that airboat users in Zone 4 of the Stairsteps Unit camp at designated campsites only. New backcountry campsites/destinations will avoid sensitive resources, and stay limits, group size limits, and required permits will help minimize impacts on the natural soundscape.

The additional miles of motorized and nonmotorized trails is anticipated to increased dispersion among visitors, which should decrease the frequency of unwanted soundscapes for nonmotorized users. Standard noise abatement measures will be followed during trail and destination improvements, reopening, and maintenance. Measures may include a schedule that minimizes impacts on adjacent noise-sensitive resources, the use of electric power tools, and the use of the best available noise control techniques (wherever feasible).

Overall, the adverse effects on soundscapes will be small in scale and occur only for short durations. Very large expanses of the preserve will contain natural soundscapes. Therefore, the selected alternative will not result in impairment to the natural soundscape.

SUMMARY

The National Park Service has determined that implementation of the selected alternative will not constitute impairment of the resources of Big Cypress National Preserve. This conclusion is based on consideration of the preserve's purpose and significance, a thorough analysis of the environmental impacts described in the Plan/EIS, relevant scientific studies, advice or insights offered by subject matter experts and others with relevant knowledge or experience, comments provided by the public and others, and the professional judgment of the decision-maker guided by the direction of the NPS *Management Policies 2006*.

APPENDIX B: SELECTED ALTERNATIVE MAP

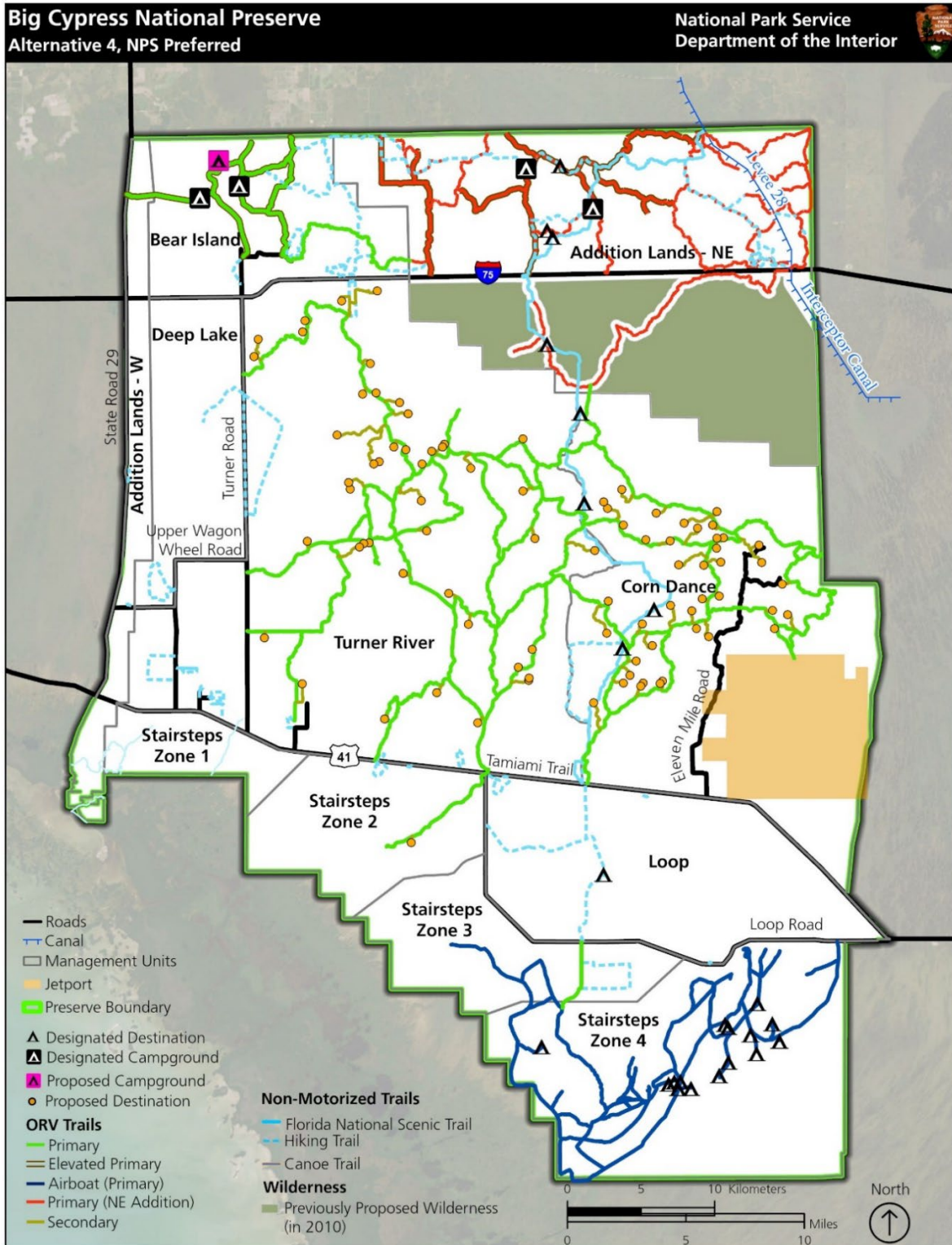


FIGURE B-1. NPS SELECTED ALTERNATIVE

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