

**Staff Research  
Prepared for  
Bay-Delta Advisory Council  
Assurances Workgroup**

**Evaluation of Program Characteristics  
for**

**The Chesapeake Bay Program**

**The Columbia River Gorge National Scenic Area  
and**

**The Columbia River Gorge Commission**

**The South Florida Ecosystem Restoration Task Force  
and**

**The Everglades Forever Act**

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## EXECUTIVE SUMMARY

### Background

The CALFED Bay-Delta Program is a cooperative effort to develop and implement a comprehensive plan for long-term management of the Bay-Delta system. A 1994 Accord signed by Secretary of the Interior Bruce Babbitt and California Governor Pete Wilson provided the framework for the CALFED Bay-Delta program. Partners to the process are State of California and United States departments and agencies which have management or regulatory responsibility for Bay-Delta resources.

Common program goals identified for comprehensive planning include ecosystem restoration, water quality improvement, water supply reliability, and levee system integrity. Bay-Delta solution principles require that actions 1) be implementable, 2) be affordable, 3) be durable, 4) be equitable, 5) reduce conflicts, 6) result in no significant redirected impacts.

### Purpose

Developing a solution that can meet long-term planning goals, and creating specific actions that meet solution principle criteria, requires new interagency and public-private relationships along with highly flexible management strategies. The program must also provide assurances--the full range of administrative and legal tools from Congressional legislation and regulatory authority to contracts and market incentives--that the solution, once identified, can be implemented and operated as agreed to by all interests.

Various CALFED work groups have expressed interest in knowing more about how other complex resource management programs have handled different resource and administrative issues. This report presents examples of various program successes and challenges that may help CALFED determine what types of administrative structures, management techniques and funding strategies best serve its needs.

### Criteria and Methodology

No program's range of human, natural and economic resource issues are identical. The report focuses on various aspects of different programs to furnish insight on issues that do not generally show up in program special or annual reports: the hows and whys of institutional relationships, public involvement and the decision process. It relies almost exclusively on telephone interviews with various program participants and administrators for this information. A range of perspectives has been sought wherever possible to provide balanced insight based on how different participants feel about various program characteristics. Information also came from program reports and publications, web site materials, and data available from Tetra Tech,



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Inc. The report should not be regarded in the same manner as comprehensive and detailed case studies: it is reporting of perceptions as much as it is reporting of facts, and it is often selective in the facets of a given program that it examines.

Inquiry into various programs were based on the following areas of interest:

- Resource Problems and Program Responses
- Administrative Structure
- Assurances
- Funding
- Policy and Project Implementation Strategies
- Contingencies

#### Draft Report

The current report is an early draft. It should be considered a preliminary attempt to provide examples and observations which might help various CALFED program workshops answer questions and refine strategies for policy and program design and implementation.

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**The Chesapeake Bay Program**

# THE CHESAPEAKE BAY PROGRAM

## INTRODUCTION

The Chesapeake Bay Program (Program) is the first estuary restoration program in the United States. Begun through a United States Environmental Protection Agency (EPA) administered study in 1975, the Program became an entity in 1983. A voluntary agreement was signed by the EPA, the cabinet-level representatives of the State of Maryland and the Commonwealths of Pennsylvania and Virginia, the Mayor of Washington, DC, and the Chair of the Chesapeake Bay Commission, a tri-state legislative commission responsible for advising the General Assemblies of Virginia, Maryland and Pennsylvania. Together, the signatories formed the Chesapeake Executive Council which sets policy direction for the program.

*The Chesapeake Bay Agreement of 1983* was a general commitment by the parties to work cooperatively to improve and protect the water quality and living resources of the Chesapeake Bay (Bay). It was replaced by the more detailed *1987 Chesapeake Bay Agreement* which included six goal components, each containing a goal statement, objectives, and a series of commitments to achieve the goals. The most well known is the Water Quality commitment to reduce nutrient loading by 40 percent through a basin-wide strategy by the year 2000, using the 1985 point source loads and average rainfall year nonpoint source loads as the baseline measurement. The 1987 agreement also changed participation on the Chesapeake Executive Council from cabinet-level representatives to the governors of the respective states. *The 1992 Amendments* extended the nutrient reduction commitment and included a new commitment to develop a tributaries strategy.

Scientific challenges in the Program have been dramatic. It is a continual reminder that large natural systems and the range of components that can affect them are not well understood. Science for the Program has repeatedly produced discoveries, many of them recent, that have required Program flexibility to adjust appropriately and rapidly. The Program has leading edge modeling and monitoring, but indicators and models must often be redeveloped to reflect evolving understanding of the Bay's needs if goals are to be met.

The annual budget is allocated by the Budget Steering Committee based on policy direction from the Implementation Committee. Annual funding comprises four levels: core, base, activities and competitive. Core and base are considered fundamental to the various program functions and do not receive review. Activities budgets are expected to conform to planning targets and are not considered budget entitlements. The competitive category receives the most oversight since it is primarily for innovative proposals which may come from either inside or outside the Program.

Program participants credit the Chesapeake Bay Alliance, an independent outreach organization, with good communication and public relations. The Alliance is funded by the EPA to develop outreach techniques and to produce *The Bay Journal* which is highly regarded by

various program participants. The EPA gives the Alliance autonomy over editing the *Journal*. All parties contacted have found this arrangement extremely beneficial to the Program.

Additional emphasis is currently being placed on developing local government involvement in, and support of, Program policies. Over the life of the Program, it has become apparent that Bay health is a watershed-wide issue. Early efforts were focused almost entirely on the mainstem of the Bay and on State and Federal recovery actions. Ultimately, program success depends on local buy-in and participation.

The Program's longevity, which has given participants the opportunity to develop trust and the ability to work together effectively, is a crucial success factor when difficult policy decisions have to be made. The Program's greatest strength is also its greatest weakness: the voluntary nature of the agreement. It provides signatories with the flexibility and creativity that a regulatory structure would not promote, but it also allows the different parties to approach their commitments to the Program in an uneven manner.

Website information is available at [www.chesapeakebay.net/bayprogram](http://www.chesapeakebay.net/bayprogram)

## THE CHESAPEAKE BAY PROGRAM

### Area Covered by the Program

The 64,000-square-mile Chesapeake Bay watershed comprises portions of New York, Pennsylvania, West Virginia, Delaware, Maryland and Virginia and all of the District of Columbia. The Chesapeake Bay (Bay), which is the focus of the Chesapeake Bay Program (Program), is approximately 200 miles long with over 4,400 miles of shoreline. Despite the large surface size of the tidal bay, 2,300 square miles, the average depth is 27 feet (Chesapeake Bay Program, 1997a).

### Establishment and Evolution of the Program

Former Maryland Senator Charles Mathias is credited with the Chesapeake Bay Program's inception. A trustee of the non-profit citizen's organization, the Chesapeake Bay Foundation, Mathias had a strong understanding of Bay functions and an abiding interest in the increasing visibility of problems linked to deteriorating ecosystem functions.

Environmentalists, Bay recreationists and commercial enterprises dependent on robust fish and shellfish populations were the major organized interests concerned about deteriorating water quality and ecosystem health in the 1970s. They were joined, however, by large numbers of citizens throughout the area. The Bay has a very powerful influence on sense of place, so it has long had a large constituency. It splits Maryland in half; consequently, large populations in that state live on its shore or in close proximity to it. It is, therefore, natural that early efforts to solve Bay problems were strongest in Maryland. There was no single critical event or issue that galvanized interests or forced decision makers into action. Instead, the political environment of the 1970s was fertile for Mathias to exercise leadership and secure Congressional funding for a multi-year, EPA administered study of the Bay's condition beginning in the mid-1970s.

While the study was taking place, Maryland and Virginia established the Chesapeake Bay Commission (Commission) to work on issues of mutual importance such as reciprocity of fishing licensing. It created the Bi-State Bay Committee, an informal, cabinet level entity which was a precursor to the current Program and which functioned as the organization to receive the EPA report recommendations. Formed in 1980 between the two states, Pennsylvania became a member in 1985.

Preliminary reports of the study in the early 1980s became the impetus for the governor of Maryland to convince the governors of Virginia and Pennsylvania that solutions to Bay problems depended on cooperative efforts among the states. In 1983, the country's first estuary restoration program was initiated. *The Chesapeake Bay Agreement of 1983*, a non-binding statement of commitment (Appendix A), was signed by the governors of Maryland, Virginia and Pennsylvania; the Mayor of Washington, DC; the chair of the Chesapeake Bay Commission; and

the Director of the EPA. Other institutional structures such as an interstate compact or Bay-wide authority had been considered, but the states were determined to maintain their respective rights. Partners to the compact committed to general goals of improving and protecting Bay living resources and water quality. Together, the signatories formed the Chesapeake Executive Council (Executive Council).

The most difficult issue in crafting the original solution--reducing nutrients to restore living resources--was moving away from looking at the Bay from a political subdivision perspective and treating it as a geographic entity. It required forging new intergovernmental relationships to coordinate laws and policies and new citizen-government relationships to raise public awareness about citizens' roles in Bay recovery efforts.

The 1983 Agreement was replaced by the *1987 Chesapeake Bay Agreement* (Appendix B) that contained specific goals including a 40 percent reduction of nitrogen and phosphorus entering the Bay by the year 2000. The 1987 agreement was supplemented by the *1992 Amendments* (Appendix C) that further committed the partners to reduction strategies in the Bay's tributaries (Chesapeake Bay Program, 1997b).

In 1994, executives of the 23 federal agencies with management or regulatory authority in the Bay signed the *Agreement of Federal Agencies on Ecosystem Management in the Chesapeake Bay* (Appendix D). The level of the signatories and the range of agencies represented is unusual and provides additional stability of federal cooperation and commitment.

### **Program Mission and Goals**

*The Chesapeake Bay Agreement of 1983* did not contain goals beyond establishing the Chesapeake Executive Council, an implementation committee, and an EPA liaison office. It did not have a formal mission statement; rather, the agreement was a general pledge among the parties to implement policies that would, "...improve and protect the water quality and living resources of the Chesapeake Bay estuarine system."

*The 1987 Chesapeake Bay Agreement* was a refinement and expansion of the original agreement. It contains six goal areas: Living Resources; Water Quality; Population Growth and Development; Public Information, Education and Participation; Public Access; and Governance. Each goal area contains a goal statement, objectives, and a series of commitments to achieve the goals. The most well know is the Water Quality commitment to reduce nutrient loading by 40 percent through a basin-wide strategy by the year 2000 using the 1985 point source loads and average rainfall year nonpoint source loads as the baseline measurement.

## Resource Issues and Program Responses

Ten issues were originally proposed for study. The list was narrowed to three: nutrient enrichment, toxics pollution, and decline of submerged aquatic vegetation essential to a variety of waterfowl and marine life. At the beginning of the study process, it was assumed toxics were the Bay's major problem causing decline of submerged aquatic vegetation. The EPA administered study revealed, however, that the Bay's primary problem was nutrient loading in the form of excess nitrogen and phosphorus.

Early efforts included cooperation among the three states of Maryland, Virginia and Pennsylvania to enact a Bay-wide phosphate detergent ban, introduction of agricultural best management practices, biological nutrient removal systems at wastewater treatment facilities and public education.

Nutrients being carried into the Bay by its tributaries were determined to be a significant impediment to goal achievement. The Program partners produced *The 1992 Amendments* in response to the problem. The agreement reaffirmed the commitment to the 40 percent reduction by the year 2000 but further agreed to maintain that level into the future. It also amended the water quality goal to include Bay tributaries and committed to developing a tributaries strategy. By that time, the Program had also acquired enough data to understand that some tributaries contained significantly more nonpoint sources of pollution, so *The 1992 Amendments* contained language to assure that equity in developing the strategy.

Some of the action plans the Program has developed are nutrient reduction, toxics management, and habitat restoration. Some of the habitat restoration goals include five- and ten-year mileage targets for reopening upstream spawning habitat for migrating fish, recovery of 114,000 acres of sea grasses by the year 2005, and restoration of riparian forest on 2,010 miles of stream and shoreline by the year 2010.

## Science and Program Administration

One of the more difficult issues regarding identification of, and response to, resource problems has been changing scientific knowledge. This is not to imply any lack of rigor or expertise: findings are subjected to peer review on an ongoing basis. It is a continual reminder that large systems and the range of components that can affect them are not well understood. Scientific surprises have been a part of the Program from the start, when it was determined that nutrients and not toxic pollution was the Bay's primary problem.

Since then, the science for the Program has produced additional discoveries that have required Program flexibility to adjust appropriately. The lag time for nutrients to move out of the ground and into the water column after cleanup efforts on agricultural land was not originally understood. Depending on soil types, the lag time may be up to 20 years, and this will affect both recover time and how progress is interpreted. Several years into the Program it was

discovered that up to 30 percent of the nitrogen in the Bay could be airborne. Some of it is from sources the Program cannot control, such as out-of-state sources and vehicle usage. This creates special challenges to reduction efforts.

Scientific credibility has been strengthened over time since, in addition to science being subjected to technical and peer review, the Scientific and Technical Advisory Committee has increasingly held workshops and performed literature syntheses relevant to program managers. There have been instances where political commitments had to be made without the benefit of strong scientific certainty, but there has now been enough success and scientific credibility built into the Program that the level of political and scientific comfort with such decision making has increased. There is recognition that science has to be able to adapt to political realities, but having a strong technical basis for recommendations increases the political viability of scientific recommendations.

The mechanism for developing recovery projects is a top-down process. Projects developed by the Scientific and Technical Advisory Committee are responses to policy directives and subsequent budget work plan targets developed by the Budget Steering Committee. Proposals in response to annual targets go before the Budget Steering Committee, and the work plan is returned to the committee for a final round of comments if there are changes.

Priorities are ultimately a balance between scientific and political demands. When the tributaries strategies were developed, methods that might have been most productive from a science standpoint were untenable from a political and economic standpoint. Programs had to adapt in order to produce equitable strategies that would still yield improvements even though outcomes might not achieve the most desirable recovery levels in a timely manner.

### **Administrative Structure**

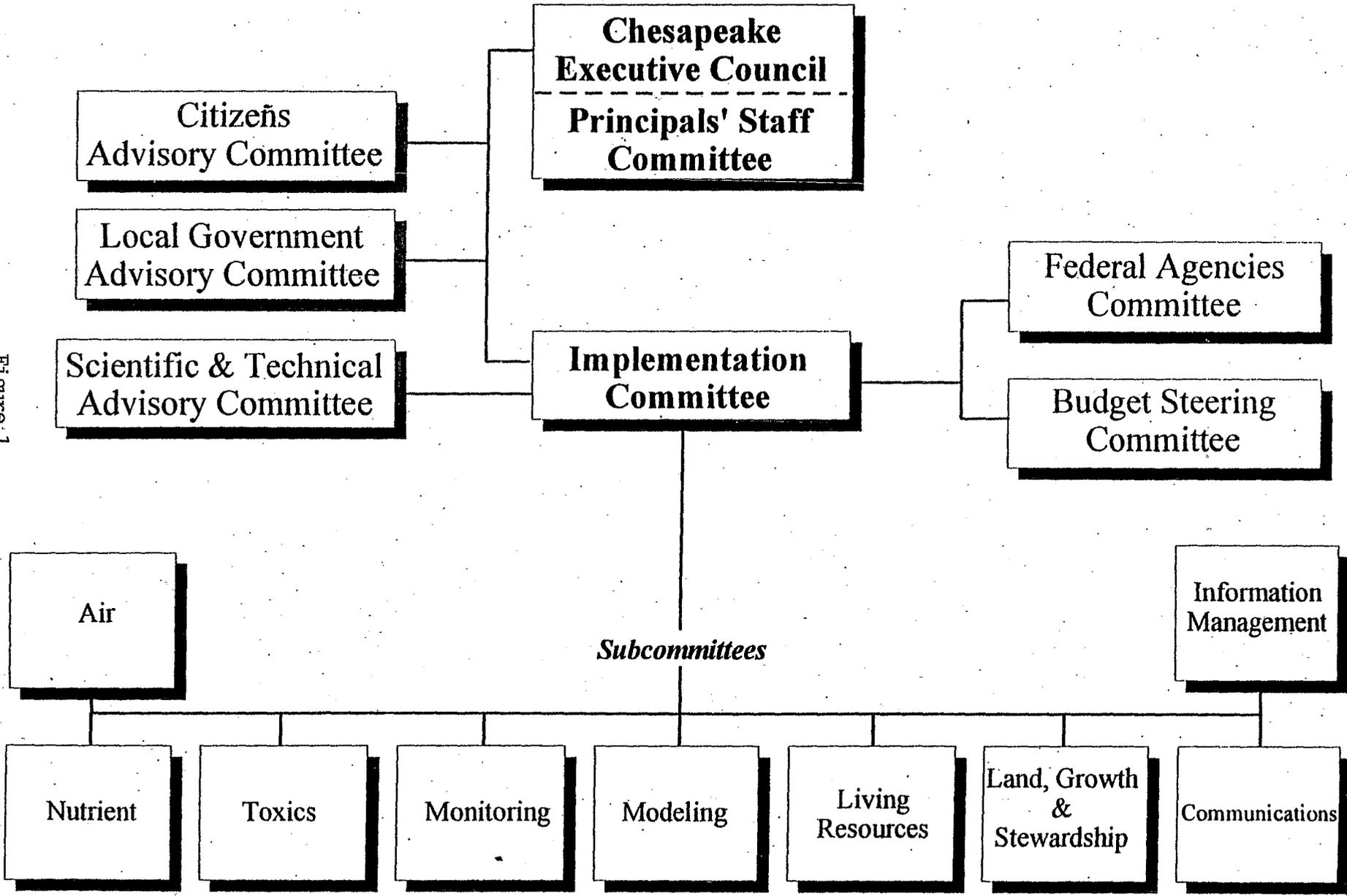
Figure 1 at page 8 shows the most visible current administrative components of the Chesapeake Bay Program. Over the life of the program, more than 50 subcommittees and workgroups have been created, usually by the Implementation Committee, to respond to various issues and needs (Chesapeake Bay Program 1997b).

The Chesapeake Executive Council, discussed above, determines ultimate policy direction for the Program with advice and recommendations from the Principals' Staff Committee and Implementation Committee. The 1983 Agreement contained provisions for membership at the cabinet secretary level, which is now represented on the Principals' Staff Committee. Awareness that the decision making group needed the highest level of commitment and involvement led to a change in the 1987 Agreement. Representation on the Council shifted to the governors of the partner states. The agreement is not legally binding, so all entities retain their respective regulatory authorities. Decisions on the Executive Council and the committees are made by consensus.

The Council meets annually but can meet as needed. The meetings are held in two parts: during the first part, only chairs of the various advisory committees are permitted in the room with the Council members; the second part is a public meeting. Although the organizational chart shows that only the Citizens Advisory Committee and Local Government Advisory Committee report directly to the Council as well as the Implementation Committee, the Scientific & Technical Advisory Committee also responds directly to the Council at the annual meeting.



Figure 1



The Principals' Staff Committee comprises executive staff of the signatories to the Agreement. It accepts policy recommendations from the various committees and subcommittees and advises the Executive Council. The Committee also sets policy and program direction for the Implementation Committee.

The Implementation Committee, which may receive policy direction from either the Principals' Staff Committee or Executive Council, has a fairly large roster. It comprises representatives from the signatories to the 1983 and 1987 agreements as well as representatives from ten other federal agencies and various Program participants. It oversees the Budget Steering Committee and Federal Agencies Committees and the ten subcommittees listed on the organizational chart. It establishes committees and subcommittees and coordinates their activities, it formulates the annual work plan and operating budget with help and recommendations from the Budget Steering Committee, it provides technical support, and it is responsible for public outreach programs. It also responds to information and recommendations from the Technical Advisory Committee, the Local Government Committee, and the Citizens Advisory Committee. Staff is provided by the Chesapeake Bay Program Office.

Special note should be made of the Chesapeake Bay Commission. A tri-state legislative advisory entity formed by the General Assemblies of the participating states, the Commission makes policy recommendations and legislative proposals on issues regarding the Bay. Various organizational structures were studied by the two original states involved in the task of creating the Commission prior to the Commonwealth of Pennsylvania becoming a partner. After two years evaluating existing and potential management structures, the Joint Maryland-Virginia Chesapeake Bay Legislative Advisory Commission recommended forming a commission that would have a legislative focus to coordinate laws for the Bay (Chesapeake Bay Commission, 1996). Assumptions were that state involvement eliminated federal statutory limitations and provided greater sense of ownership of Bay issues between the two states. Commission architects also recognized that involvement in the budget process would be a key to successful policy. The Commission included cabinet-level and citizen representatives from each state to ensure good breadth of views and needs. While the Commission has a mission and responsibilities apart from the Program, it is a very active player in Program policy development and implementation.

## Policy Implementation

Policy direction comes primarily from the Executive Council. The Chesapeake Bay Commission also formulates policy for the Bay both as a partner on the Executive Council and as an independent entity coordinating Bay legislation as appropriate among the three states.

Policy action can start from various places in the Program. The members of the Executive Council all have authority to act independently to respond to perceived policy needs for their respective jurisdictions. If a member has an important initiative, it will be brought before the other members for discussion and agreement. Policy recommendations most typically

come from the Implementation or Principals' Staff committees. An issue may also start at the various independent committee or subcommittee levels. If that is the case, it is often assigned to a task force or workgroup for refinement and then works its way back up through the Implementation Committee to the Principals' Staff Committee. From there it goes before the Executive Council as a recommendation to be considered at the annual meeting. It can be either a directive (selected examples, Appendix E) that formally charges the Program with carrying out specific actions or an adoption statement (selected examples, Appendix F) that formally accepts a report, plan or set of recommendations.

The formal acknowledgment at the annual meeting gives a policy decision high visibility and legitimacy which Program members believe create momentum. At the same time, the states have a lot of leeway to take care of policy commitments in their own way in their own time. This arrangement allows the executives on the Council to take chances and extend themselves on public policy in ways they might not consider if they were reacting to regulatory requirements. It has also led to criticism that the Program sometimes lacks adequate accountability for following its own commitments.

In addition to the Chesapeake Executive Council, the Chesapeake Bay Commission carries out policy making. The Commission has the advantage of being able to move legislation directly since it comprises members of the legislatures and therefore does not need to find sponsors. Often, however, the Commission will be the catalyst for policy recommendations that go before the Executive Council. The watershed initiative that was approved by the Executive Council is an example: the Commission passed a resolution which it took before the Executive Council, and the Executive Council in turn asked the Commission to draft a directive and shepherd it through the legislature. The riparian buffer initiative also originated in the Commission.

## **Funding and Budget**

The Program budget is allocated through the Budget Steering Committee comprising 25 representatives of the various Program interests. The Committee makes decisions on a consensus basis. The Budget Steering Committee does the bulk of the work preparing the annual work plans and budget targets. Budget approval by the Implementation Committee is most often a pro forma review.

Federal funds are not allocated for cleanup efforts. Approximately half of the annual budget is allocated to collection and monitoring data. The other half goes to grants which are negotiated consistent with EPA grant making guidelines on a 30-30-30-10 percentage basis among the states and Washington, DC for administration and infrastructure support. States are responsible for funding cleanup. The Program also receives earmarked funds for special projects based on Congressional appropriations.

Program funding includes four categories: (1) Core, which is the minimum needed to keep the Program going. If most funding was lost, the Core category funding would likely go to monitoring as the minimum activity that would constitute still having the Program; (2) Base, which is allocated to all Program entities to carry out stable year-to-year functions; (3) Activities, which are projects consistent with annual work plans and policy directives; and (4) Competitive, for innovative projects that supplement Program activities but which may be undertaken by organizations outside the Program. The Competitive category is a relatively small percent of the budget, but it offers unique opportunities for innovative approaches and cooperative efforts with outside interests which promote Program visibility and support.

Activities and Competitive proposals receive considerable oversight. Activities proposals are expected to fall within planning target amounts. Competitive proposals can come from either subcommittees or from outside the Program. If proposals come from the outside, they are most often referred to subcommittees for merit review. This could cause bias if the subcommittee feels supporting an outside proposal might replace approval for one of its own. The subcommittees are expected to do the bulk of work preparing project plans after which they are submitted to the Budget Steering Committee. They are then ranked based on elements such as strategic objectives, Executive Council directives, and the leveraged assistance potential represented by matching funds.

Maryland implemented a state tax check-off in 1985 and commemorative license plate program in 1989 to augment Program activities through non-profit efforts. Portions of the revenues go to the Chesapeake Bay Trust, a 503(c)(3) entity that raises funds and makes grants to a variety of citizen and public interest groups. It is not administered by the state, though the board is appointed by the Governor. The Trust has been an effective revenue pass-through to citizen groups engaged in clean up efforts.

## Outreach

Early in the Program there was ample funding but few staff positions, so the decision was made to have the Alliance for the Chesapeake Bay (Alliance) be responsible for outreach activities. The Alliance predates the Program. It was organized in 1971 to provide information and a forum for citizens to communicate to each other about Bay issues and be involved in policy making in a timely and non-confrontational manner.

The Alliance has other independent projects and funding sources, but it has received funding from EPA since establishment of the Bay Program. It has a unique relationship with the Program. It both responds to and initiates recommendations. It may take directions from Program to coordinate communication efforts on an issue or organize a workshop. It may also generate proposals for development of projects or techniques it thinks will benefit the Program. The Alliance proposed, received approval for, and developed a Bay citizen monitoring program. In addition to organizing the program, it developed the written guidelines for procedures and performance. The Alliance also publishes *The Bay Journal* which is highly regarded by a broad

spectrum of Bay interests. Its credibility is influenced by both the writing and the fact that the EPA gives the Alliance autonomy over *Journal* editing. Members of the Program acknowledge that the Alliance has done a great deal to ensure outreach success and visibility since its level of expertise in outreach and communication rarely exists within typical program organizations or agencies.

Surveys are considered essential to appropriate outreach efforts. The EPA funded a survey in the early 1980s to find out levels of knowledge and concern about the Bay throughout the drainage. People farther from the shore cared as much about the Bay but were less knowledgeable about how their actions affected it. This gave the Program valuable information for how to tailor informational programs.

Maryland undertook its own survey in the early 1990s. It ran into problems with the marketing style questions since the survey was federally funded and therefore had to comply to OMB guidelines. The state will probably repeat the research later but will look for other funding sources so that it can better tailor its survey to its 'consumer knowledge' needs. The assumption behind the market-type survey, as opposed to polling, is that if the Program wants to get the public behind its efforts, it had better know who and where its public is. A mistake programs too often make is assuming they know the answers to those questions.

'The Bay Starts Here' campaign was one technique for raising public consciousness about the Bay. The Program distributed kits throughout the drainage that included several crack-and-peel stickers with a blue arrow pointing down and the words 'The Bay Starts Here.' People would put them in their showers and in their sinks at work and at home. Kits also contained a pamphlet on how to save water; a water-saving device that could be attached to the end of a faucet; a ruler and instructions to measure the grass so that people wouldn't cut it as often, thereby reducing water, fertilizer and pesticide use; and a brochure entitled 'Fifteen Ways to Save the Bay.' For Pennsylvania, the stickers read, 'The River Starts Here' since research indicated that people in that area identified more strongly with the Susquehanna River, which is the Bay's biggest tributary.

The Program is putting additional emphasis on outreach to develop local government participation. The cooperative efforts between states will have to be echoed between states and their respective local governments if gains on recovery are to continue. Local government support and involvement will be critical as the range of actions that can be carried out at the state level have been fully developed. The Program acknowledges that, as more emphasis moves to activities in the tributaries, developing good relationships and a network of knowledge among the Program and communities will be a key to successful recovery efforts.

## Assurances

The basic assurances are the Bay agreements which have goals, objectives and commitment statements. The different plans which have been developed in response to those

commitments are additional assurances. Having measurable goals and target dates are considered important assurances, but with a caveat: participants and the public need to understand that there has to be flexibility in meeting target numbers and dates since there are so many variables which can affect achieving those goals. There is a difference in perception about the wisdom of allowing the goals to be moving targets as that approach can be used to put off making hard choices, but there is broad agreement about the need to include both ultimate goals and short-term benchmarks that can be reported on yearly.

There are enforceable assurances in federal, state and local regulations. Local regulations tend to be more a response to the different state mandates. Because of the voluntary nature of the agreements, there is some sense that state regulations, in particular, may be uneven in their enforcement or contribution to the Program's goals. The other side of the argument is that states need flexibility since the point and nonpoint pollution sources affecting the Bay are not evenly distributed. Concerns tend to center on the need for the partners to remain committed enough within their political subdivision to help all others meet goals, which has not always appeared to be the case.

The Implementation Committee is an assurance. It meets every six weeks and makes certain projects are on track for reporting at the annual meeting. They require reports from the various committees and subcommittees. Each meeting begins with the 'Bay Results' report that highlights on-the-ground progress. The idea came from a citizen who regularly attended Implementation Committee meetings. Incorporation of the idea has been valuable as both an incentive and a means to cross-check irregularities early in their occurrence. For example, a program goal for oyster beds was 11,000 acres by the year 2000. Despite prior reporting that almost no progress had been made, a late 1997 report indicated the program was on target. The Implementation Committee investigated the sudden success and found that measurements had been redefined. The Committee is currently looking into what measurements are being used to make certain they are appropriate to Program goals and needs.

Funding assurances are EPA's commitment to the Program as well as that of the states over the last 15 years, but this can never be considered an absolute. Budgets have fluctuated and are ultimately subject to administrative changes through the electoral process and a change in level of commitment as a result. Observations of Program participants have been that the funding has been fairly stable overall at both the federal and state levels. The way the budget process is set up is also an assurance since committees have had to define core and base functions. In the event of serious funding losses, the Program has already determined how it can operate at a reduced level.

Less tangible but considered extremely important as an assurance is the high level of trust and the ability of the different interests to work with one another which has developed over the life of the Program. The 1997 *Pfisteria* outbreak was an example of a situation that needed rapid response and the ability to work through an issue that is going to have both environmental and economic consequences. Long-time participants were able to listen to one another and work through difficult issues in a much more civil and effective manner than one would ordinarily

expect from a process where policy changes have to be made that will significantly affect interest groups.

## Measuring Success

Administrative success is measured by the ability of the Program to foster cooperation among the signatories for passing legislation that will help the Bay recover. It is also measured by the ability of the Program to effectively adapt to changing information and needs.

Having measurable goals and targets with sophisticated monitoring and short-term strategies that can be either administrative or resource related has given both the Program and the public ways of determining where and how managerial efforts are paying off. Since the first goal and target date set in the 1987 agreement, the Program has committed to additional goals and target dates. The sense is that, in recovery areas where goals are not measured, public knowledge and support is lower for Program accomplishments. A list of environmental indicators that include measurements such as vehicle miles traveled, numbers of fish, and numbers of acres converted to development has also been developed and is reported on an annual basis. The annual report is a tool for informing and for directing focus. It often indicates where more money is needed for a project to be successful or where closer management is needed if some of the numbers show poor rate of movement or movement in the wrong direction.

The Program does provide an annual audit of its administrative performance, but the audit is done internally. This may affect objectivity, and it has been suggested that an outside audit might be a more productive tool to improve performance where needed.

A playful way of measuring success while bringing Bay issues to the public is the 'Bernie Fowler Index.' Mr. Fowler, a Maryland State Senator who has been a resident of the Bay all his life, had waded out into the Bay since he was a boy to gauge how far out he could walk and still see his white sneakers. There is now the Bernie Fowler Index Day, when a large group of people, headed by the Honorable Mr. Fowler, meet at a particular site, link arms, and wade out until he can't see his white sneakers any longer. It is an informal measure for water clarity that is surprisingly similar to scientific visual response devices; but it is a humanizing way of making Bay conditions real to the public.

One of the most effective tools the Program has produced is a model for what the Bay system might look like if nothing had been done since the Program started. The public can make comparisons and acknowledge that they would not want 'no action' outcomes. This enhances support since people understand progress not only in terms of the baseline measurements, but in terms of having the Bay Program at all.

## Contingencies

The Program has no formal contingency plan. It has dealt with challenges on an ad hoc basis.

Early in the Program's history, a Congressional investigation of EPA caused a loss of the scientific support contract for computing, modeling and staff almost overnight. Rebuilding the support took the Program nearly two years, but it has increased reliability and seamlessness of scientific and technical program functions. EPA funds staff from various entities such as the USDA Forest Service, various state agencies and universities. There are 20 fellowships that contribute significantly to scientific and technical support. Team leaders are appointed by EPA according to responsibilities rather than by organizational affiliation. This has increased inter-organizational cooperation.

In addition to the discovery that airborne nitrogen is a significant problem, current science for the Program indicates that there may be a groundwater lag of up to 20 years, depending on factors such as soil type, before nitrogen in the ground flushes out into the water column. Over the last year it was also determined that reducing nitrogen and phosphorus in the rivers reduced total suspended solids; but that, in turn, reduced algae which would otherwise consume nitrogen. The result is that cleaning up the rivers is currently delivering nine million pounds more nitrogen into the mainstem of the Bay. The tidal rivers are also producing surprises. As the total suspended solids are removed from other sources, they are replaced in the water column by nitrogen and phosphorus in the sediment. The reduction of total suspended solids are creating higher nutrient levels, so there is currently a down cycle in indicators for the tidal rivers. It is assumed this will continue for 18 to 24 months before the sediments are cleaned out. These various factors affect prior assumptions about how rapidly certain types of actions would yield a certain level of response. As a result, management strategies will have to change to accommodate these discoveries in order to meet Program goals.

### **Effects of Program Characteristics on Operations**

The Bay Program's greatest strength was also seen as its greatest weakness: the voluntary nature of the agreement. It provides signatories with the flexibility and creativity that a regulatory structure would not promote, but it also allows the different parties to approach their commitments to the program in an uneven manner.

There is a sense that having the governors involved is significant for two reasons. First, they have the most influence over their respective lawmaking bodies and administrative entities: A signal from the executive that an issue is important creates political momentum from the top down. Equally important is the psychology of having elected officials on the Executive Council. It creates the sense that the political system has bought into the Program as opposed to policy being the result of general bureaucratic planning.

A drawback of the arrangement is that state-by-state response to directives and Program needs through legislation or funding can be uneven. This can affect implementation and, as a

result, the perception of overall commitment. The electoral process can affect commitment when governors and legislators who do not support Program efforts because of their political philosophies come into office. This has happened, but its effects on the Program are not as negative as one might expect. The longevity of the Program provides a strong incentive for new members of the Executive Council or Commission to follow those who have gone before them. In the case of the governors, there is also incentive not to be a 'lone ranger' and act contrary to the cooperative effort of the others. It is unclear, however, whether this buffering effect would be maintained should membership in the Program become dominated by unsupportive personalities over a significant enough length time to affect institutional culture.

It is significant to participants that only one member of the governing board of the Program is a federal representative. Even though EPA is the grant administrator and has strong presence because of the staffing and funding support it provides, the states have a great sense of ownership in the Program. The federal government does have the prerogative of regulatory enforcement, but the relationship has relied on cooperation with a good deal of leeway provided for innovative approaches to problem solving. There have, however, been expressions of frustration that there isn't more of a regulatory enforcement approach to Bay issues as a backup when different partners have been slow to carry through with commitments.

The sheer size and complexity of the full Program can affect performance and accountability. Committees, subcommittees and the various workgroups and task forces have established reliable back-and-forth communication, but on-time reporting has been an intermittent problem. Some favor the complexity of the Program because it has the potential to involve a larger number of people with diverse interests. Others see it as an energy sink with too much time needed to attend meetings that may not produce policy direction in a timely manner.

One advantage of having a number of committees is that high performing ones become pace setters for committees which, for a number of reasons, become dysfunctional. The Implementation Committee generally acts as the authority to step in and evaluate a committee's performance problems and make recommendations for improvement.

The Program has issues of stakeholder authority for policy making. Program staff feel there is ample opportunity for influence through the various advisory committees, but different interests feel as though they are not given enough authority to genuinely influence Program direction.

One recommendation that came up from nearly all sources was to make certain committees at the upper level of the organizational hierarchy can only conduct business with interest and agency representatives who have policy authority. If policy makers are permitted to send staff, the process loses both momentum and credibility. The Bay Commission has an effective rule which allows staff to attend if necessary, but they may not sit at the table as policy issues are being discussed and decided.

**The Columbia River Gorge National Scenic Area  
and  
The Columbia River Gorge Commission**

**THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA**  
**and**  
**THE COLUMBIA RIVER GORGE COMMISSION**

**INTRODUCTION**

The Columbia River Gorge has been nationally recognized for its beauty and its cultural and natural resources since the turn of the century. Concerns about the impact of development led Washington and Oregon to establish advisory land use planning commissions in the 1950s to protect the Gorge's unique qualities. Neither of the commissions had any authority to manage development, so they were largely ineffective.

The Columbia River Gorge National Scenic Area Act (Act), passed in 1986, directed management of the area to protect and enhance scenic, cultural, recreational and natural resources of the Columbia Gorge and to support the area economy through growth management consistent with resources protection. It defined three separate land use areas in the Scenic Area: Urban Areas, which were exempt from Management Plan provisions; the General Management Area which was dominated by agricultural and forestry uses and was to be managed to maintain those uses along with recreation; and the Special Management Area, which contained the most resource-sensitive lands and required the most stringent management and development controls. The Act also provided for creation of the Columbia River Gorge Commission (Commission) through interstate compact.

The Commission, established in 1987, is a regional land use planning authority representing national, state and local interests. It has responsibility for developing and coordinating land use planning policy on non-federal lands for the bi-state, six-county region within the Scenic Area. Management is in conjunction with the USDA Forest Service which has management responsibilities on the federal lands within the Scenic Area (Columbia River Gorge Commission and USDA Forest Service, 1992).

The Commission monitors implementation of the Management Plan, ensures compliance with ordinances, can revise or amend the Plan, hears appeals to land use decisions, and can alter boundaries of the Urban Areas. Counties are responsible for the day-to-day decisions on private land uses consistent with ordinances and the provisions of the Management Plan. The planning departments of the different counties are responsible for developing ordinances which are adopted by the respective boards of county commissioners and submitted for review by the Commission for consistency with the Management Plan. In the one county which has not adopted ordinances, the Commission makes land use decisions consistent with its own ordinances.

The Act authorized funds for implementation of a Management Plan and for Forest Service authority to purchase interest in Special Management Area lands in the Scenic Area. The Commission gets its funding on a 50-50 split basis from the states of Washington and Oregon.

Funding for ongoing Forest Service operations has tended to be stable; but Commission funding, which has been considered chronically insufficient by different interests, has recently been cut. Most of the cuts in this budget cycle have been replaced through federal grants, but these are not permanent replacements. It is not known when funding will be restored or what long-term replacement funding is available should it be needed.

The Forest Service land interest purchase authorization contained in the Act has enabled the agency to acquire approximately 30,000 acres of Special Management Area lands. Various land conservancy entities have augmented Forest Service efforts in the Special Management Area by purchasing and holding property until federal appropriations for the transactions were received. Different interests believe a purchase program needs to be developed for property with significant resources in the General Management Area.

The overall sense of various interests is that having the Scenic Area and a regional land use planning entity has been far more successful at protecting Gorge resources than earlier, fragmented efforts; but relationships between the Commission and local governments has been difficult. Recently developed indicators, such as how well the Management Plan has been implemented by the responsible agencies, and how consistently ordinance enforcement is being carried out, will be used during upcoming plan review to evaluate administrative effectiveness.

**THE COLUMBIA RIVER GORGE NATIONAL SCENIC AREA**  
**and the**  
**THE COLUMBIA RIVER GORGE COMMISSION**

**Area Covered by the Program and Commission**

The Columbia River Gorge National Scenic Area (Scenic Area) covers approximately 292,615 acres along an 83-mile stretch of the Columbia River Gorge (Gorge) east of Vancouver, Washington and Portland, Oregon. The USDA Forest Service (Forest Service) is responsible for management of public lands with the Scenic Area. The Columbia River Gorge Commission (Commission) has planning authority over non-federal lands. Three counties in Washington and three in Oregon have lands within the Scenic Area (Columbia River Gorge Commission and USDA Forest Service, 1992).

**Establishment of the National Scenic Area and Commission**

The Columbia River Gorge has been nationally recognized for its beauty and its cultural and natural resources since the turn of the century. Activities such as dam building, timber harvesting and rock quarrying all affected the Gorge's landscape. The foremost concerns about the Gorge's scenic integrity, however, had to do with growth and development.

Between 70 and 80 percent of lands in the area now covered by the Scenic Area were in private ownership, so development potential was considerable. By the 1930s, there was concern about the impact of development on the beauty of the area. In the 1950s, both Oregon and Washington established advisory land use planning commissions to protect the Gorge's unique qualities. There were no state land use planning regulations in either state, and neither commission had any authority to manage development, so their effect was minimal. Four counties were later convinced to develop special zoning requirements for development along the Columbia River, but area protection was still inadequate (Columbia River Gorge Commission and USDA Forest Service, 1992).

In the early 1980s, the National Park Service produced a study pointing out threats to the area. National park creation was offered as a solution; but opposition from property owners in the Gorge was vehement, so the proposal never went forward. Worries about inappropriate development of the Gorge were heightened when the I-205 Portland-Vancouver Bypass was constructed in the early 1980s. Portland was growing rapidly on the east side toward the Gorge, and the bypass made the Gorge more accessible, increasing its development potential as a commuter area.

Several subdivision requests on both sides of the river following bypass completion galvanized concerns. Oregon had adopted state land use planning in 1972, but concerned interests considered its provisions inadequate for the type of growth management needed in the Gorge. Washington had no state plan, so lands on its side of the river were considered

completely unprotected. Although counties expressed concern for Gorge protection, development escalated through incremental approval of subdivision proposals without any regional coordination among counties.

The push for federal intervention came primarily from metro Portland and Vancouver. Demand for an entity with the regulatory power to require appropriate, consistent land use decisions in both states was based on the demonstrated inadequacies of past commissions with only advisory status. Hostilities over perceived gentrification of local communities by outsiders is an ongoing issue in some areas.

Opinions in the Gorge were divided: some residents supported federal protection while others vigorously opposed that level of regulatory control of the area. A succession of bills were introduced in Congress but failed because the senators and governors from the two states could not reconcile differences over their content. The issues included boundaries, the makeup of a commission, the relationship between the counties, the Forest Service and the Commission, and what sorts of powers the commission would have relative to the Forest Service. Consensus was reached in 1985, and The Columbia River Gorge National Scenic Area Act (Appendix G) was passed in 1986 (Columbia River Gorge Commission and USDA Forest Service, 1992). Despite its political support at the state and federal levels, the Scenic Area remained controversial among residents of the Gorge.

The Act provided for creation of the Commission through interstate compact. The Commission, established in 1987, is a regional land use planning authority representing national, state and local interests. It has responsibility for developing and coordinating land use planning policy on non-federal lands for the bi-state, six-county region within the Scenic Area.

### **Program Mission and Goals**

The Scenic Area Act mission is to protect and enhance scenic, cultural, recreational and natural resources of the Columbia Gorge and to support the area economy through growth management consistent with resources protection.

The Forest Service is responsible for management of federal lands consistent with the Act such as administration of recreational facilities; design of resource protection, management and enhancement strategies on federal lands; and provision of public and information services (Columbia River Gorge Commission and USDA Forest Service, 1992). The Act also gave the Forest Service authority to purchase interest in lands within the Scenic Area.

The Commission sets policy for land use planning consistent with the Act's direction to protect the various resources within the Scenic Area. The Act required the Commission, in cooperation with the Forest Service, to develop a management plan for the Scenic Area that incorporated specific standards and guidelines for managing land use and protecting resources on

both public and private lands. The Management Plan for the Columbia River Gorge National Scenic Area (Management Plan) was adopted by the Commission in 1991 and approved by the U. S. Secretary of Agriculture in 1992.

### Resource Issues and Program Responses

The issue for both the Forest Service and the Commission has been growth and development on lands in the Gorge that compromise its scenic, cultural, recreational and natural resources. The Scenic Area Act and the Management Plan approved in 1992 were the responses to the issues. Prior to adoption of the Management Plan, the Scenic Area was managed with interim guidelines provided by the Act and administered by the Commission and the Forest Service.

The Act created three land management categories:

1. Urban Areas. Comprising 13 cities and towns in the Gorge, the Urban Areas are exempt from the requirements of the Master Plan but may receive federal funds to implement the plan if they choose. Growth and economic development efforts are to be concentrated in the Urban Areas.
2. General Management Area (GMA). The GMA is dominated by forest and agricultural uses. Lands are to be managed for those continued uses and for recreation. Development of non-federal lands must be consistent with ordinances developed by the counties and approved by the Commission.
3. Special Management Area (SMA). These are the most resource-sensitive lands in the Scenic Area. The Forest Service was directed by the Act to prepare special management guidelines for federal lands in the SMA. Non-federal lands in the SMA under authority of the Commission are regulated more strictly than lands in either of the other two categories. Federal funding was provided for the Forest Service to purchase lands within the SMA to enhance resources protection.

### Science and Program Administration

Restoration efforts have been applied mainly on lands acquired by the Forest Service. Decisions about what projects to implement are based on budget, on what is calculated to produce the best results for the dollars, and, often, the visibility of the work. The Forest Service acknowledges that it is important to undertake some projects that will exhibit rapid results if public interest and support is to be maintained.

## Administrative Structure

There are 13 members on the commission: three each appointed by the governors of Oregon and Washington, one each appointed by the six counties in the Scenic Area, and one ex-officio member from the Forest Service. The Commission monitors implementation of the Management Plan, ensures compliance with ordinances, can revise or amend the Plan, hears appeals to land use decisions, and can alter boundaries of the Urban Areas.

Counties are responsible for the day-to-day decisions on private land uses consistent with ordinances and the provisions of the Management Plan.

The Forest Service and Commission share management of the Scenic Area. The Forest Service's primary role is land acquisition and federal land use management. At the time the Scenic Area bill was passed, there were approximately 55,000 acres of Forest Service land within the Scenic Area boundaries. Since that time, the Forest Service has acquired over 30,000 acres.

Four Indian tribes have lands in the Scenic Area. Consultation with the tribes is required to ensure that decisions by the Forest Service and the Commission do not conflict with tribal sovereign rights. The tribes may develop cultural resource plans to augment those administered in the Scenic Area outside of tribal lands.

## Policy Implementation

The Commission has authority to develop and enforce ordinances on all non-federal lands within the Scenic Area in accordance with the guidelines of the Act. Approval of policies and ordinances consistent with the Act is determined by vote of the Commissioners. Simple majority or two-thirds majority may be needed depending on the type of decision being considered.

The Act required the Commission and Forest Service to develop the Management Plan for the Scenic Area in a three-step process. It required that recreational, economic and resource inventories be carried out; that land use designations then be produced; and that goals, objectives, policies and guidelines be developed. The land use ordinances to carry out the goals and objectives of the Master Plan went into effect in 1993.

The planning departments of the six counties are responsible for developing ordinances which are adopted by the respective boards of county commissioners and submitted for review by the Commission for consistency with the Management Plan. In the one county which has not adopted ordinances, the Commission makes land use decisions consistent with its own ordinances.

The Forest Service has federal dollars available for economic development. It is only available through a competitive process to those counties which have adopted ordinances. So far, the Forest Service has contributed \$6.5 million for construction of an interpretive center in

Wasco County, Oregon and \$5 million for construction of a conference center in Skamania County, Washington.

## Funding and Budget

Original Congressional appropriations for the program included \$40 million for acquisition of property interests and approximately \$30 million for various incentives and in-lieu tax payments. The monies were not appropriated, and Oregon Senator Mark Hatfield is credited for his work to get funds released through his position as chair of the Senate Appropriations Committee. Hatfield is now retired; but Washington Senator Slade Gorton, with his position as chair of the Senate Appropriations Subcommittee on Agriculture, has also helped bring authorized funding through for the program.

Commission funding is split on a 50-50 basis by the states of Washington and Oregon. Different sources noted that Commission funding has been perennially inadequate. Washington and Oregon recently cut the Commission's budget. Most of the cuts in this budget cycle have been replaced through federal grants, but these are not permanent funding replacements.

Budget cuts were a political sanction from both legislatures which feel the Commission has demonstrated unwillingness to work with local governments when developing policies and ordinances. The Commission's challenge is to display greater cooperation in order to regain legislative support. The perception is that the Commission did not build the necessary framework for support with either the public or with those who created it or funded it early in its history. Initial missteps in developing good relationships have left lingering perceptions about the Commission's attitude, even though there are indications they have changed.

## Outreach

Outreach for the Management Plan development included discussions with decision makers at all levels of government in the Gorge and with four Indian tribal governments. Public involvement included meetings with citizen volunteers and community leaders in each county followed by open house meetings and information mail-outs. Workshops were also held for public input, and there were three rounds of public hearings for each of two draft plans (Columbia River Gorge Commission and USDA Forest Service, 1992).

The absence of effective outreach by the Commission was frequently cited. One of the reasons there hasn't been good outreach is underfunding, but neglecting outreach has yielded significant consequences. Since funding has been cut because of impressions that the Commission has acted in a heavy-handed manner, there is no broad based public support in the area which will appeal to the legislatures on behalf of the Commission.

It is important to view the outreach in context. Oregon has had a statewide land use plan since 1972. Counties in that state were used to top-down land use planning decisions and having land use designations legislatively defined when the Commission was created. This is not to suggest that the Oregon counties fully supported the decisions for the Management Plan nor that they now fully agree with the ordinances, only that such changes in institutional relationships were less contentious in counties which were already accustomed to such arrangements. It is unclear whether outreach for the Oregon counties was the best it could have been to build support for carrying out the Commission's mandate, but the level of acceptance was different in Oregon than in Washington.

Washington State adopted their Growth Management Plan in the early 1990s. Unlike Oregon, Washington counties were given the authority to define many of the land use terms. Since the Washington counties are more autonomous than the Oregon counties, they have been more resistant to the Commission's authority. Given those conditions, it is unclear whether any amount of outreach would have actually yielded support in some areas, or whether a different type of outreach would have improved the relationship between the Commission and the counties.

Antagonism because of perceived gentrification has also created political challenges for the Commission. It is associated by some Gorge residents as a entity representing outsiders who are dictating land use and economic development plans to locals.

## Assurances

The primary assurance for protection of the most sensitive lands in Gorge is the federal Scenic Area Act. The authority of the Commission is also an assurance; but, as discussed above, the ability of that authority to carry out its duties on non-federal lands may be affected by loss of traditional funding sources. It is too early to know whether replacement funding will be sufficient to minimize the effects of current losses.

The ordinances are assurances since they are enforceable requirements that development conform to management guidelines. The Commission's ability to impose decisions where counties have not adopted approved ordinances is also an assurance. There are indications that enforcement of ordinances has been spotty, and this issue will be examined in the upcoming Plan review.

Having a large federal agency such as the Forest Service involved in funding and administration has a stabilizing effect on management of portions of the program. The Forest Service budget has been reduced because of Congressionally mandated spending cuts, but there are still sufficient monies for Scenic Area management. This is partly because the agency was engaged in land use management before Scenic Area establishment and would continue to function in much the same capacity regardless of changes in land use designations. Funding stability also exists partly because the size of the agency allows it to absorb funding cuts more

easily by distributing them throughout its programs. A stand-alone entity, such as the Commission, does not have this advantage.

The Forest Service purchase program for the Special Management Area has been an effective assurance. It has been enhanced by the brokering activities of various land conservancy organizations, the Trust for Public Lands in particular, which have purchased land interests and held them for the Forest Service when the appraisal, authorization and appropriation process could not respond rapidly enough to offers to sell.

### Measuring Success

Overall, the Scenic Area designation and creation of the Commission can be considered a success because the Gorge now has enforceable means of protecting resources and coordinated, consistent guidelines for development. Specific directions under the Act have been carried out: the Management Plan has been created, all but one county have adopted ordinances, development decisions are made under consistent guidelines, and federal funding for economic development projects and land acquisitions has been made available.

On another level, success is a measure of how well the Management Plan is implemented and enforced. Recently developed indicators, such as how well the National Scenic Area Management Plan has been implemented by the responsible agencies, will be used to answer these questions through upcoming plan review.

If success is measured by how well an institution relates to its political environment, the Commission has not performed well. It has a new executive director and is working on achieving that measure of success. It should be noted that the Commission is in a difficult position: it must balance efforts to work with local governments with its obligations to manage lands in the Gorge for the national interest in preserving an area of unique qualities.

### Contingencies

The program has no formal contingency plan. The current contingency the Commission must deal with is the cutback in funding from both Oregon and Washington legislatures. Senator Slade Gorton from Washington has helped replace the cut with some federal appropriations for the current budget year, and the Commission successfully secured federal grant money over the last budget cycle, but it expects a fairly substantial operating shortfall in the coming year. The Commission's efforts to secure replacement funding is hampered by the fact private foundations rarely fund government entities. It is unclear how the Commission can continue to meet its mandate with insufficient funding, and it is unclear how well it can replace the cut funds on a sustained basis.

Neither legislature can unilaterally withdraw its support of the Commission; but the two legislatures could jointly defund the Commission or, in the extreme, jointly agree to revoke the compact. If that were to occur, the Scenic Area would still be managed by the Forest Service, but there are unanswered questions about what authority would exist over regional land use decisions for non-federal lands.

### Effect of Program Characteristics on Operations

The ineffectiveness of prior advisory commissions and the different land use management approaches of the two states led to the creation of a regional authority. It has provided increased and more uniform protection of Gorge resources, and support for its mission has grown over time in some areas. The fact that five of the six counties have adopted ordinances, particularly in cases where there was virtually no zoning prior to establishment of the Scenic Area and the Commission, is a significant accomplishment.

A reputation for sensitivity toward those affected by policy decisions was not cultivated early in the Commission's history. Lingering perceptions of poor to non-existent interest in collaboration have not been overcome. Opposition is currently more powerful and organized than support, and the resulting budget cut may affect the ability of the Commission to meet its obligations. To be fair, some of the opposition to the Commission in both state legislatures and in some communities is simply due to the fact it exists: an authority with the ability to impose regulation on local governments. It is unlikely that, in the more extreme of these situations, any amount of collaboration would yield support.

In part because of inadequate funding, and in part because the Commission did not concentrate on public outreach and support for its mission, it does not have a broad based constituency to appeal to for help in the face of budget cuts. The lesson is that cultivating public support may be one the most critical aspects for ensuring long-term stability. The Commission needs to define what it is and why it is important and then campaign on that message to build support. Political leaders have greater incentive to support those programs for which the public shows loyalty.

The presence of the Forest Service gives the program some stability. The organization has a long history in the area, and its functions did not change radically as a result of the Act. The Forest Service authorization for land interest purchases in the SMA has been a plus for the Scenic Area. Different interests agree that the authorization should be extended to lands in the GMA which contain significant resources. The Forest Service does not have authority for purchase activities on those lands, nor has the Trust for Public Land been active in the GMA. A number of local land trusts are in early development stages. If they can organize successfully and acquire the necessary financing, this can be a way to fill the gap that now exists for land interest purchases in the GMA.

The use of incentives--federal economic development dollars for counties which develop ordinances consistent with the Management Plan--has been a plus. While there is still conflict in the counties over the regulatory scheme, having the potential for economic development funding has made them more willing to accept regional planning concepts and restrictions.

The road between Congressional authorization and funding appropriations has been uneven, perhaps in part because the Scenic Area was established during a time of considerable federal cutbacks. Having senators from both Oregon and Washington on Congressional appropriations committees had much to do with the program receiving authorized funds. This does indicate that fundamental support exists at the federal level. The challenge for the Commission is to develop strategies that provide support from both the top down and the bottom up.

**The South Florida Ecosystem Restoration Task Force  
and  
The Everglades Forever Act**

**THE SOUTH FLORIDA ECOSYSTEM RESTORATION TASK FORCE**  
**and**  
**THE EVERGLADES FOREVER ACT**

**INTRODUCTION**

The South Florida ecosystem is the focus of several networked restoration efforts. This chapter focuses on two of them which were referred to most often in interviews as having the strongest connections: Everglades ecosystem restoration activities which are the result of a lawsuit against the State of Florida by the U. S. Department of the Interior and passage of the Everglades Forever Act, and the U. S. Army Corps of Engineers (ACE) Restudy of the Central and South Florida Project (C&SF Project) through the South Florida Ecosystem Restoration Task Force (Task Force).

Congress established the Central and South Florida Flood Control Project (C&SF Project) in the late 1940s for flood control, prevention of salt water intrusion, water conservation, and preservation of fish and wildlife. Since drainage efforts began, it is estimated that the Everglades has been reduced to half of its original land area. It is now approximately two million acres, but the remaining area has been significantly compromised by agricultural and urban development pressures which have systematically altered hydrologic patterns and biologic responses in the ecosystem.

In 1994, the Florida legislature passed the Everglades Forever Act. The Act implements conditions of a settlement agreement which directs, among other things, construction of filtration marshes by the South Florida Water Management District. The act also established the two-tiered Agricultural Privilege Tax to fund construction of the marshes.

The 1992 Water Resources Development Act (WRDA) directed the ACE to conduct the Central and South Florida Project Comprehensive Review Study (Restudy). It is a 20-year comprehensive planning effort to balance flood control, water supply and timing of water management activities to meet the needs of the environment as well as the needs of urban and agricultural users. Among other things, the subsequent 1996 WRDA accelerated the timetable for the Restudy and authorized \$75 million in matching funds for a Critical Projects Program.

In 1993, an interagency agreement among six federal departments with management responsibilities for restoration efforts established The South Florida Ecosystem Task Force. It is responsible for coordinating development of federal policies, strategies, plans and priorities among the federal departments working on restoration of the South Florida ecosystem (South Florida Ecosystem Restoration Task Force, 1996). The Management and Coordination Working Group (Working Group), a subgroup of the Task Force, carries out development and evaluation of recommendations.

Although the Task Force was established by federal interagency agreement in 1993, Section 528 of the 1996 WRDA established it by legislation and broadened its participation beyond federal representation.

Land purchase is a priority for restoration efforts. In addition to a total of \$300 million in matching federal Farm Bill monies, the state has instituted its own purchase program, Preservation 2000. A ten-year, \$3 billion program established by the legislature in 1990 for land and water conservation, revenues from a real estate transfer tax may be appropriated by the legislature on an annual basis and bonded. To date, over 800,000 acres have been purchased through the program (Preservation 2000: 1997 Annual Report, undated).

The Task Force produces an Annual Interagency Cross-Cut Budget and an Integrated Financial Plan (IFP). The annual Cross-Cut Budget packages total cost but cuts across agencies to show what individual commitments are necessary for project implementation. The IFP is the compilation of all projects necessary for comprehensive ecosystem restoration. IFP inventory includes an extensive list of characteristics for each project such as funding, agency coordination, other project linkages, and cost sharing (South Florida Ecosystem Restoration Working Group Annual Report 1996).

The Governor's Commission for a Sustainable South Florida was created in 1994 to preserve the state's interest in Restudy efforts since the Task Force was constrained by FACA from allowing other than federal participation. This was changed by the Unfunded Mandates Reform Act of 1995, and the Commission was named as the citizen's advisory body to the Task Force. The Task Force, the SFWMD, and the Governor's Commission for a Sustainable South Florida have different but overlapping policies for ecosystem restoration. The linkage of different entities which have different missions and functions provides mutual reinforcement. Because it is a combination of federal and state efforts, the overall influence of restoration policies and projects is wide ranging.

More information is available at the following Web sites:

For the Task Force and Working Group: [www.sfrestore.org](http://www.sfrestore.org)

For the Restudy: [www.restudy.org](http://www.restudy.org)

For the Governor's Commission: [www.dos.state.fl.us/fgils/agencies/sust](http://www.dos.state.fl.us/fgils/agencies/sust)

**THE SOUTH FLORIDA ECOSYSTEM RESTORATION TASK FORCE  
and  
THE EVERGLADES FOREVER ACT**

**Area Covered by Restoration Efforts**

The South Florida ecosystem is the focus of several networked restoration efforts. The area is roughly the lower third of the state. It includes lands below Orlando in the Kissimmee River basin, the lands toward Fort Myers to the southwest and the Melbourne area to the southeast, Lake Okeechobee to the south, and all lands south of the Lake through the Florida Keys. The area is about 18,000 square miles (USACE Jacksonville District, 1997).

**Evolution of Current Efforts**

The numbers of actions that caused natural systems problems in the South Florida ecosystem, and the efforts to rectify them, are too numerous to discuss separately. This report focuses on two separate ecosystem restoration efforts that are linked through the South Florida Water Management District (SFWMD): Everglades ecosystem restoration activities which are the result of a lawsuit against the State of Florida by the U. S. Department of the Interior, and passage of the Everglades Forever Act; and the U. S. Army Corps of Engineers (ACE) Restudy of the Central and South Florida Project (C&SF Project) through the South Florida Ecosystem Restoration Task Force (Task Force). The report focuses on these two efforts since they were referred to most often in interviews as having the strongest relationship among the various South Florida ecosystem restoration efforts. The 1996 Farm Bill is mentioned because its purchase program supplements the state's land and water conservation land purchase program critical to restoration efforts by ACE and SFWMD.

Alteration of the ecosystem began with land grants in the late 1880s for the purpose of draining swamp lands and making them habitable for human populations. The State established its own program of diversion and drainage early in the 1900s and created the Everglades Agricultural Area (EAA), draining lands in the northern portion of the Everglades into Lake Okeechobee.

After several cycles of deadly hurricanes and flooding, and potential salt water intrusion in municipal wells during droughts, Congress established the Central and South Florida Flood Control Project (C&SF Project) in the late 1940s for flood control, prevention of salt water intrusion, water conservation, and preservation of fish and wildlife. The ACE widened existing canals and established new ones, and the state created the Central and South Florida Flood Control District which was the predecessor the SFWMD. The State and ACE eventually managed a system of approximately 1,000 miles each of canals and levees as well as other water management structures (USACE Jacksonville District, 1997). Since drainage efforts began, it is

estimated that the Everglades has been reduced to half of its original land area. It is now approximately two million acres, but the remaining area has been significantly compromised by agricultural and urban development pressures which have systematically altered hydrologic patterns and biologic responses in the ecosystem.

Drainage provided land for development as well as agriculture, and growing population put increasing pressure on the system for water supply. Taking water from parts of the system and redirecting nutrient-enriched water to others caused a number of changes in the ecosystem. In 1972, the legislature created regional water management districts and shifted the emphasis from flood control to four major areas of water management: drainage, water supply, environmental protection and enhancement, and water quality.

Ecosystem problems brought the Everglades to both state and national attention during the 1970s. Nutrient enriched waste waters discharged into the Everglades, and Lake Okeechobee in particular, were converting complex sawgrass habitats into cattail monocultures. Overdrainage in some areas, coupled with Florida's seasonal wet-dry cycles, produced dry conditions in the rich, organic peat soils. Widespread, long-burning fires broke out in the 1970s producing smoke severe and prolonged enough that it caused respiratory problems in much of Dade County. The fires burned holes in the peat creating depressions that, in the wet season, were hospitable to additional cattail invasion.

Flood management strategy for agricultural interests south of Lake Okeechobee included diverting runoff into the lake. The nutrients, phosphorus in particular, promoted algae growth. In the latter 1970s, algae blooms on the lake reached such a large scale that the phenomenon attracted national news attention. The SFWMD stopped backpumping water from the EAA for flood control and instead discharged it into water conservation areas south of the EAA. Nutrient loading became a problem for the Loxahatchee National Wildlife Refuge to the southeast of the lake and for Everglades National Park which was designated a UNESCO World Biosphere Reserve and World Heritage Site in 1976.

- **The Everglades Forever Act of 1994**

In 1988, The U.S. Attorney filed suit against the State of Florida because of water quality problems in Everglades National Park and Loxahatchee National Wildlife Refuge from nutrient enriched discharges out of the C&SF system. A 1991 settlement agreement and 1992 consent decree resulted. Among the conditions of settlement was construction of filter marshes to take nutrients out of the water before it entered the national park.

The state attempted to involve the sugar industry in funding the requirements of the settlement agreement, and the industry sued the state. In 1994, the Florida legislature resolved an impasse in legal negotiations between the parties by passing the Everglades Forever Act. The Act implements conditions of the settlement agreement and expands Everglades restoration activities.

- **The South Florida Ecosystem Restoration Task Force**

Since it was begun in the late 1940s, the C&SF Project network of water management structures has caused significant hydrologic changes and altered the Everglades ecosystem. Drainage made land available for growth and development which in turn required even more manipulation of the system for additional flood control and for water delivery.

The list of problems in the different subregions of South Florida is extensive. Developing water quality problems in Florida Bay and the Keys, and state and national concern that the Everglades were dying, appear to be the events that finally led to Congressional action. The 1992 Water Resources Development Act (WRDA) directed the ACE to conduct the Central and South Florida Project Comprehensive Review Study (Restudy). It is a 20-year comprehensive planning effort to balance flood control, water supply and timing of water management activities to meet the needs of the environment as well as the needs of urban and agricultural users.

Anecdotal information suggests that newly-elected President Clinton's desire to support environmental problem solving, Secretary of Interior Bruce Babbitt's interest in collaborative efforts, and EPA Administrator Carol Browner's former position as the state's Secretary of the Department of Environmental Regulations made the political climate right for administration attention to Florida's ecosystem restoration efforts. Babbitt visited Florida in 1992, consulted with various interest groups and proposed an interagency team approach to restoration efforts.

In 1993, an interagency agreement among six federal departments with management responsibilities for restoration efforts established the South Florida Ecosystem Task Force. It would be responsible for coordinating development of federal policies, strategies, plans and priorities among the federal departments working on restoration of the South Florida ecosystem (South Florida Ecosystem Restoration Task Force, 1996). Development and evaluation of recommendations would be done through the Management and Coordination (Working Group), a subgroup of the Task Force.

The original Task Force was limited to participation and input by federal agencies because of Federal Advisory Committee Act constraints. In response to limitations on involvement, Governor Lawton Chiles established the Governor's Commission for a Sustainable South Florida (Commission) in 1994. Ostensibly, the Commission was created to gather input from citizens and state agencies to promote concepts of sustainability. One of the Commission's responsibilities was to review water management to establish visibility and influence on the Restudy process.

The Unfunded Mandates Reform Act of 1995 permitted expanded membership on the Task Force and Working Group, so the Task Force added a representative of the Governor's Office and representatives from two tribal governments. The Working Group incorporated a

representative from each of six state agencies, the two tribal governments, and the Commission (South Florida Ecosystem Restoration Working Group, 1996). Although the Task Force was established by federal interagency agreement in 1993, Section 528 of the 1996 WRDA established it by legislation, broadened its participation beyond federal representation, and accelerated the timetable for Restudy recommendations (Appendix H).

- **The 1996 Farm Bill**

Discharge of nutrient enriched water from agricultural lands into the Everglades ecosystem has been an ongoing problem. In addition to impacts of agricultural practices, urban expansion is converting farm land into subdivisions and commercial developments. The federal 1996 Farm Bill authorized \$300 million in matching funds through the Department of Interior for purchase of property interests in sensitive areas. The priority areas were determined through public input and Working Group rankings. In addition to purchasing land to reduce impacts from agricultural activities, potential development property was acquired to reduce demand for both drainage and additional water supply.

### **Program Purposes and Goals**

The Everglades Forever Act directs the SFWMD to carry out a restoration program for the Everglades ecosystem. The Florida Department of Environmental Protection (DEP) has joint responsibility on more than half of the projects. The general program goal is to implement solutions to issues of water quality, water quantity and the invasion of exotic species (South Florida Water Management District and Florida Department of Environmental Quality, 1995).

The purpose of the Restudy is to determine what actions and projects will be feasible to correct declining conditions in the South Florida ecosystem because of altered quality, quantity and timing of water moving through the system. The ACE must still maintain water supply and flood control obligations while restoring natural systems functions. The purpose of the Task Force is to coordinate activities for restoration, preservation and protection of the South Florida ecosystem and to develop restoration objectives for the Restudy. It has a broad list of duties designed to facilitate and coordinate efforts. Its three goals are to integrate water quality, supply and timing management; to enhance natural resources; and to promote policies that encourage design of the built environment to minimize its impact on the natural environment.

### **Resource Issues and Program Responses**

The resource issues are complex, and the responses are extensive. A comprehensive list is too numerous to describe in this report. Selectively, the issues and responses are as follows:

Ecosystem changes in Everglades National Park as a result of the C&SF Project generated different legislative and administrative actions over several decades. The 1991 settlement agreement/1992 consent decree and the 1994 Everglades Forever Act which require the construction of filtration marshes are the most current and aggressive responses to ecosystem issues in the park and in Loxahatchee National Wildlife Refuge. The solution is both judicial, since the judge in the lawsuit maintains authority to determine compliance with the settlement agreement, and legislative.

A concurrent solution is Congressional direction for the Restudy and creation of the Task Force. Over the decades since the C&SF Project was carried out, water and land management strategies created a system that has too much water in it at some times of the year and insufficient water for any of the uses--natural, agricultural or urban--during dry periods. The Restudy was to be a jointly funded effort of the ACE with the SFWMD as the local sponsor. The 1996 WRDA also authorized \$75 million for implementation of critical projects without having to secure reauthorization over the life of the Restudy.

Although agriculture is not the only activity that contributes to water quality problems, farm practices in the Everglades Agricultural Area represent a significant source. The Everglades Forever Act established an Agricultural Privilege tax for activities in the Everglades Agricultural Area. The assessment is to raise \$230 million for construction of filtration marshes.

### **Science and Program Administration**

Efforts associated with the Everglades Forever Act and the settlement agreement are straightforward. Projects and timetables have been legally specified, and the main activity will be the construction of the filtration marshes. Phasing conflicts exist between legal and legislative deadlines. Several project completion dates specified in the settlement agreement have not been met, but projects are on target for the timetable specified in the Everglades Forever Act.

The same process was used to prioritize Restudy Critical Projects and identify Farm Bill strategic purchases. The Working Group was responsible for developing the priorities. Members of the Working Group submitted initial project proposals, and meetings were held throughout South Florida over approximately three months during which citizens, industry and local governments ranked the projects. In the final phase, the Working Group compiled rankings and rated projects on criteria set forth in the 1996 WRDA. The list was extensive and included requirements such as providing immediate benefits to the natural system, having a local sponsor and matching funds, and being consistent with C&SF Project objectives. The final list was submitted to the Task Force for review and forwarded to the Secretary of the Army for final approval.

## Administrative Structure

The SFWMD is one of five state regional water management districts. Its partnership with the Florida Department of Environmental Protection for construction of filtration marshes is set forth in the Everglades Forever Act.

The Task Force as it currently exists is a product of the 1996 WRDA. It consists of 14 members and is chaired by the Secretary of the Interior. The seven federal representatives are the heads of their respective departments or agencies. The Task Force also includes one representative each from the Seminole Tribe and the Miccosukee Tribe, two representatives of the State of Florida, one member of the SFWMD, and two representatives of local governments. Appointments other than federal representatives is made by the Secretary of Interior upon recommendation of the Governor. Figure 2 at page 37 shows a current organizational chart.

The 1996 WRDA legislatively directed the Task Force to establish a Florida-based working group. The Working Group includes senior Florida-based representatives of 13 federal agencies, six ranking members of state agencies, the Executive Director of the Governor's Commission for a Sustainable South Florida, and a representative from both the Miccosukee and Seminole tribes. Appendix I contains charters for the Task Force and Working Group.

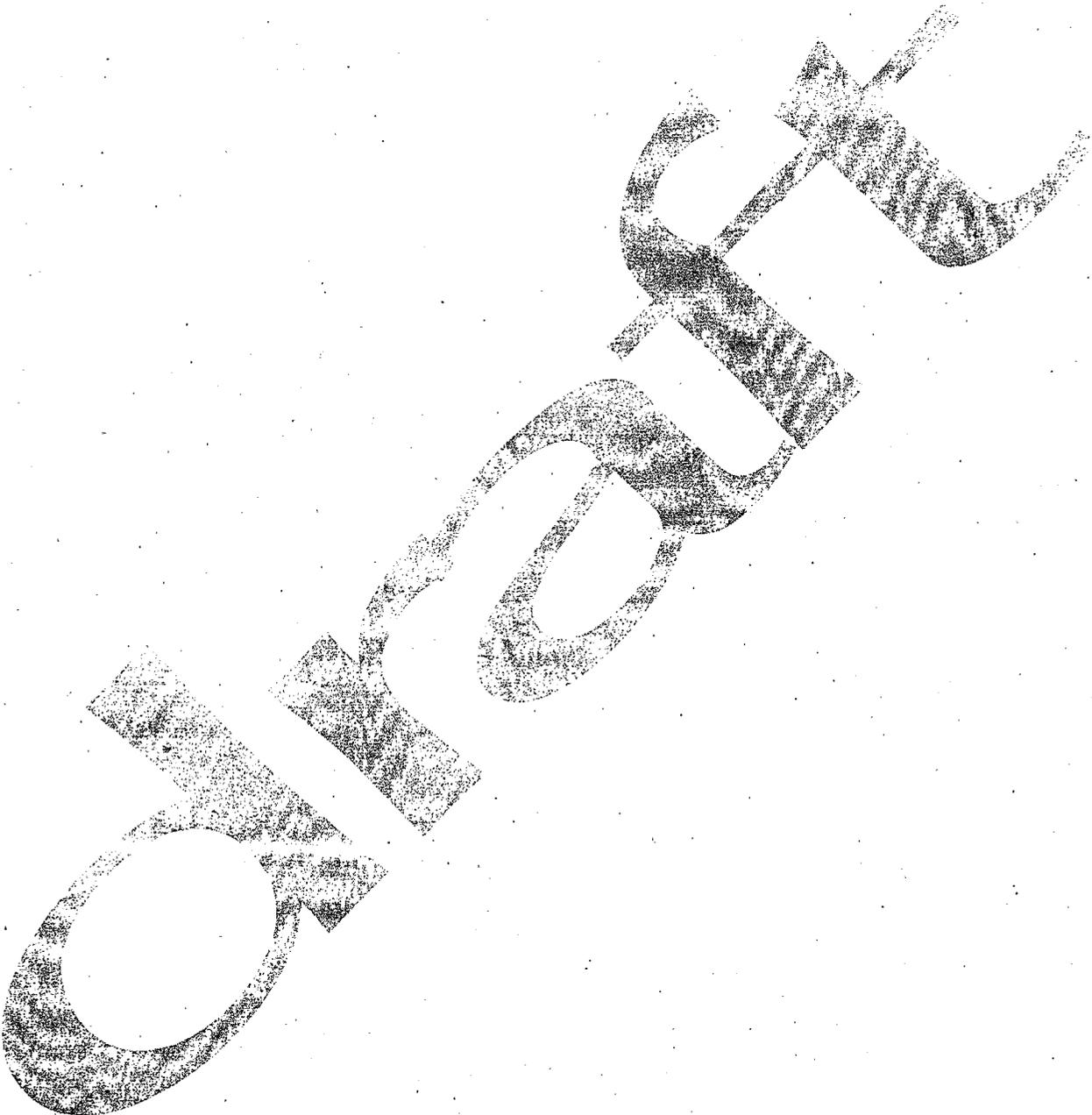
There are seven Project Teams including one that coordinates all team activities. The teams represent sub-basins in the South Florida ecosystem. They are responsible for review of projects in the Integrated Financial Plan and for advising the Working Group on project status. They also provide input for the Annual Report.

The Science Coordination Team is the science advisory group to both the Task Force and the Working Group. It takes direction from the Working Group and is responsible for recommending research plans and priorities and facilitating use of scientific information in program efforts (See Appendix H, South Florida Ecosystem Restoration Task Force Science Coordination Team Charter, 1997). It often oversees issues that cut across Project Team issues. It has studied and made recommendations to the Working Group on handling mercury contamination throughout the South Florida ecosystem and provided evaluation and input on the Homestead Air Force Base closure and realignment. It also coordinates adaptive management efforts.

The Public Outreach Steering and Support Team was created in 1997. Its purpose is to coordinate outreach efforts through development of public affairs programs, plans, and activities consistent with WRDA and Task Force management objectives and with the Working Group mission and policies (South Florida Ecosystem Restoration Task Force, 1997a).

The Task Force and Working Group also convene Issue Based/Special Teams for study and recommendation on specific topics critical to restoration efforts. Some of the teams are the Sustainable Agriculture Task Team, the Exotic Plant Control Strategy Team, and the Information Management Council.

Special note should be made of the Governor's Commission for a Sustainable South Florida. Governor Lawton Chiles established the Commission in 1994. The Commission is responsible for making policy recommendations to the Governor to achieve a sustainable balance of healthy social, economic and natural systems for South Florida. Among its duties is coordination of various Everglades ecosystem restoration activities. After The Unfunded Mandate Reform Act of 1995 removed the 'feds only' constraint on Task Force participation, the Commission was incorporated on the Task Force as its standing advisory council.



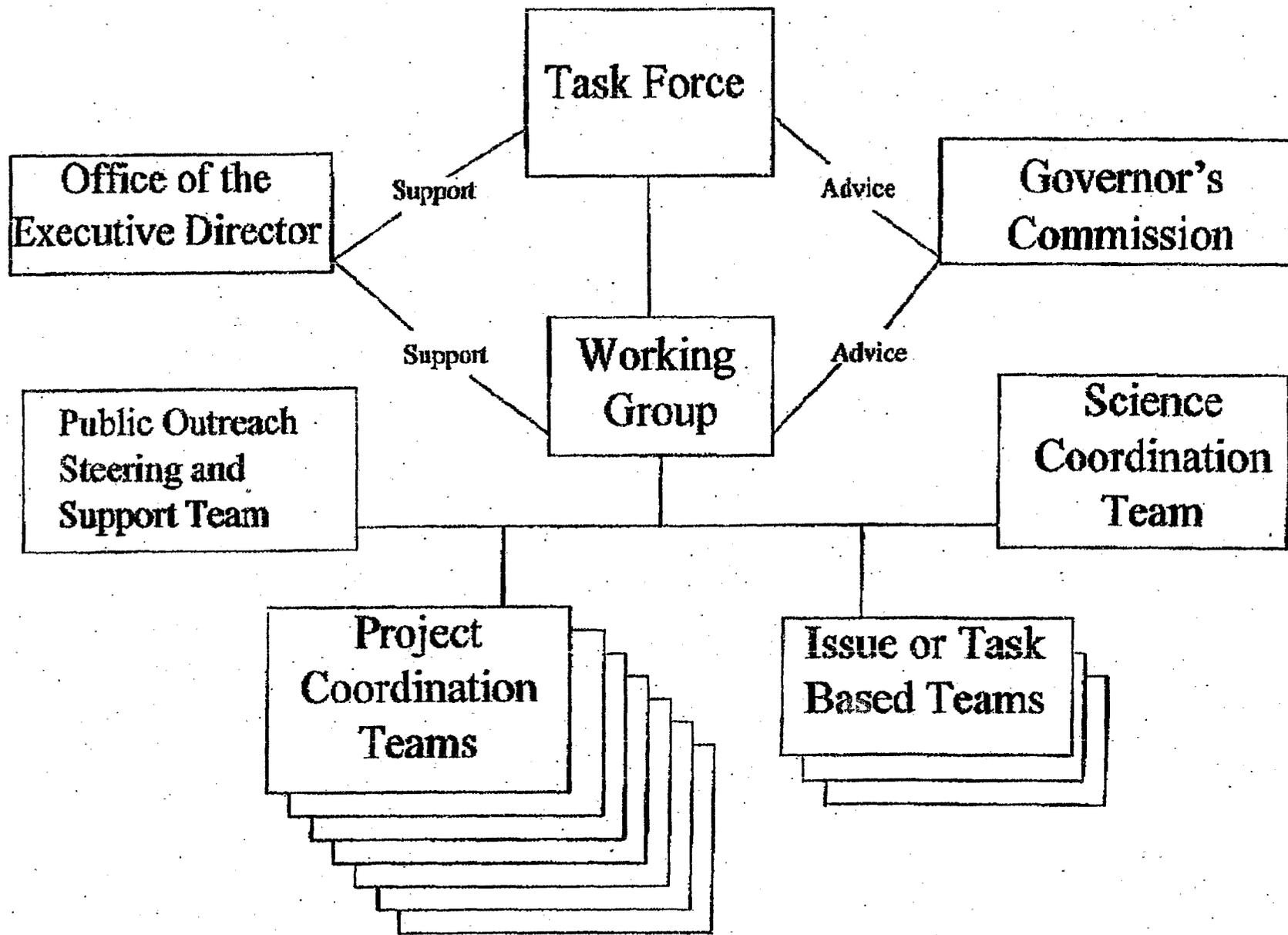


Figure 2

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Organizational Structure of the Task Force and Working Group

The Commission has a fluctuating roster of around 47 members. Regular members represent a broad spectrum of interests: two state legislators, six senior members of state agencies, four members of regional agencies, eight elected officials from either county commissions or city councils, a tribal representative, and business people in enterprises such as agriculture, banking, finance, sport fishing, development, and tourism. There are also ten members representing public interests such as academia, environmental organizations, and the League of Women Voters. Five federal representatives belong as ex-officio members. Decision making is by consensus unless a formal recommendation is made to the Governor or Lieutenant Governor, in which case the Commission members vote. Full consensus was achieved for the Commission's independent Restudy recommendations. The Commission chair, a former state Speaker of the House, is credited with the organization's high rate of consensus and output.

### **Policy Implementation**

Implementation for projects associated with the Everglades Forever Act is legally determined. Policy was determined by the terms of the settlement agreement and consent decree, and the judge in the case has the authority to enforce compliance.

Restudy components and selection of critical projects is ultimately determined by the Secretary of the Army consistent with criteria in the 1996 WRDA. The SFWMD effectively shares authority for implementation of the projects since the Act requires that ACE projects have a local sponsor with matching funds.

The Secretary of Interior makes the final decisions about land acquisitions consistent with the terms of the 1996 Farm Bill. Priorities were established by public outreach and Working Group project rankings.

The Task Force has no implementation authority: its functions are coordination and recommendation. Policy decisions are reached on a consensus basis although there are provisions for simple-majority voting when necessary. When a policy decision is reached, the cooperating agencies agree to use their respective authorities to carry out decisions. The assumption that cooperation is the norm is set forth in the Partnership Agreement and its Implementation Strategy (Appendix J).

### **Funding and Budget**

Financing for projects consistent with the settlement agreement/consent decree and the Everglades Forever Act is a combination of federal funding, the Agricultural Privilege Tax that was implemented by the act, and district ad valorem taxes levied by the SFWMD. The Agricultural Privilege Tax is two-tiered: farmers who implement best management practice plans and reduce nutrient loading by 25 percent or better are charged a lower per-acre rate. The incentive is considered successful as some areas have achieved reductions around 50 percent.

The incentive reward is calculated on area-wide achievement rather than on a farm-by-farm basis.

Land purchase is a priority for restoration efforts. In addition to matching Farm Bill monies, the state has instituted its own purchase program through Preservation 2000. A ten-year, \$3 billion program established by the legislature in 1990 for land and water conservation, revenues from a real estate transfer tax may be appropriated on an annual basis and bonded. To date, over 800,000 acres have been purchased through the program (Preservation 2000: 1997 Annual Report, undated).

The funding for Restudy projects is 50 percent federal match. The District is still looking at various funding sources for the non-federal match such as local utilities, agricultural users and the numerous drainage districts since all will benefit from system improvements. Seventy-five million dollars was authorized for the Critical Projects portion of the Restudy which runs through 1999. Ten million dollars has been appropriated to date.

Staffing for the Task Force is funded by the Department of Interior with the Executive Director appointed by the Secretary of Interior and paid as a DOI employee. All other participating departments and agencies on the Task Force and Working Group supply their own personnel.

The Task Force produces an Annual Interagency Cross-Cut Budget and an Integrated Financial Plan (IFP). The annual Cross-Cut Budget packages total cost but cuts across agencies to show what commitments are necessary for project implementation. The IFP is the compilation of all projects necessary for comprehensive ecosystem restoration. IFP inventory includes an extensive list of characteristics for each project such as funding, agency coordination, other project linkages, and cost sharing (South Florida Ecosystem Restoration Task Force, 1997b).

Funding for the Governor's Commission has come from grants made by the Coastal Zone Management Program with a match of in-kind services from the state such as the Executive Director's salary. The funding has been reliable so far, but the Commission would benefit from having a diversity of sources to increase the budget and to buffer the Commission in case grant funding from CZMP was cut.

## Outreach

Outreach has become more of a focus since the Task Force was formed. The Governor's Commission for a Sustainable South Florida is an outreach arm of the Task Force since it represents a broad range of interests among its members. Public meetings were held to gather input for both Farm Bill acquisition priorities and WRDA 1996 Critical Projects Priorities, but participation in both numbers and diversity could be improved. In 1997 The Task Force created the Public Outreach, Steering and Support Committee to increase outreach effectiveness as one of its purposes. The committee is too new to judge its success.

Part of Task Force outreach is working with local governments. It attempts to arrive at shared goals to encourage planning that will help restoration efforts. Developments that meet sustainability criteria are eligible for a streamlined permitting process. The Task Force believes the streamlining where sustainability is advanced enhances restoration efforts and creates a more cooperative relationship between regulatory entities and developers. The streamlining is not well supported by environmental interests who maintain that fast track approval leaves little room to object if they believe development proposals conflict with agencies' regulatory responsibilities.

## Assurances

The primary assurance for construction of the filtration marshes is the legal requirement contained in the settlement agreement/consent decree. Assurances for other recovery efforts such as control of exotic species, restoration of hydrologic patterns, and institution of numeric indicators for nutrient levels are legislatively mandated through the Everglades Forever Act.

Assurances for restoration and improved water storage through land purchase comes from both federal and state legislation and funding. Accountability for implementation plans is assured through the required Biennial Report to Congress. The report summarizes an extensive list of Task Force activities and describes progress toward restoration goals. The Working Group is responsible for development of the report (South Florida Ecosystem Restoration Working Group Annual Report 1996).

Assurance for cooperative, coordinated efforts between federal and state agencies is, most recently, the federal WRDA of 1996. The fact that the Task Force comprises cabinet-level participants at both the federal and state level is significant. It is a political signal that commitment to its goals is serious. An additional assurance for cooperation is the Partnership Agreement which is a statement of commitment to principles of collaboration by participants of the Task Force.

The state gets matching federal funds for implementation of restoration projects, but it retains effective veto power over federal decisions since it can refuse to act as the local sponsor for a project. The option would be exercised if a federal proposal did not meet SFWMD requirements that the project be balanced for environmental, agricultural and urban needs. This is an assurance that the state retains the requisite authority to direct efforts in what it considers its best interests.

An assurance for broad-based interest group support is the Governor's Commission for a Sustainable South Florida and the fact that the Commission operates on a consensus basis. The Commission is due to sunset in 1999, but its official position as the citizen advisory committee to the Task Force may influence its continued existence either as the Governor's Commission or as some new broad-based citizens' entity as an advisory committee to the Task Force and Working Group.

The designation of the Everglades ecosystem as a World Heritage and Biosphere Reserve works as an assurance since restoration activities have not only local and state but national and international audiences and advocates.

The authority of the SFWMD to levy taxes and to manage water supply is an assurance. The District has the ability to withhold new water from utilities and other users who do not comply with evolving water management policies or payment schedules.

### Measuring Success

The Implementation Plan to Fulfill the C&SF Project Restudy Team Partnership Agreement contains success criteria for each of its administrative goals, but Task Force Restudy program and structure are too new to measure their respective successes.

The Restudy itself has extensive performance measurements for ecological, hydrological and socio-economic outcomes. The program is in the early stages of an estimated 20-year time frame, so operational characteristics are also too new to evaluate for success.

### Contingencies

There is no formal contingency process for (problems that arise. The SFWMD and DEP are currently dealing with problems surrounding the endangered Cape Sable sparrow and the effect of protection efforts on Micosukkee tribal lands. Conversion of historically wet habitat to dry lands below the Indian reservation because of water management practices has provided new habitat for the bird. The next few years are considered crucial to its existence. Lands must be kept dry during traditional nesting season to protect the population; but during the same period, holding back water will flood housing on tribal lands.

The SFWMD and DEP have opened gaps in strategic places in the canal system to relieve flooding on reservation lands and are redirecting the rest of the flood control waters to the coastal estuaries. The agencies acknowledge that this strategy will likely cause negative impacts in the estuarine environment, but it is considered the best option given current circumstances. Alteration of the ecosystem has been so extensive that management decisions for some time into the future may often have to be made in terms of tradeoffs among negative consequences rather than the preferred condition of taking immediate steps toward consistently positive outcomes for natural systems.

## Effects of Program Characteristics on Operations

The lawsuit settlement and Everglades Forever Act have forced certain state agencies and interests to commit to specific restoration efforts. The settlement agreement between the federal and state government, and the state legislative solution to a negotiation impasse from the second suit between the state and agricultural interests, provides explicit direction and requirements for restoration projects. This may be considered a positive outcome in terms of unqualified commitments; however, the settlement agreement in particular leaves no room for what might be more resourceful initiatives or creation of good long-term working relationships. Developing voluntary, collaborative commitments would likely be more expedient and cost-effective to all interests than judicial solutions since restoration efforts will be ongoing.

The Task Force, Working Group and Governor's Commission are all collaborative efforts. It is notable that their commitment to working on restoration in a cooperative manner is reinforced by Congressional legislation. The various federal and state entities maintain their respective authorities but are authoritatively obligated to share responsibilities and resources to develop mutually beneficial policies and projects. The involvement of cabinet-level representatives at both the federal and state level enhances the validity of the Task Force and sends a top-down signal that cooperation and output is expected. It is too early to evaluate the effectiveness of this structural arrangement, but participants interviewed were all positive about the potential of the new working relationships to yield improved relationships and outcomes.

The inability of the water management districts to manage land use, coupled with extremely low water usage rates, has frustrated efforts to better manage water demand, supply and timing needs to meet SFWMD goals and objectives. Land purchase has enhanced C&SF Project water storage and reduced demand by precluding development, but efforts would benefit from more cooperative efforts by utilities and local governments. The Governor's Commission for a Sustainable South Florida has made land use management policy recommendations to help contain urban sprawl, so the organization's efforts have been a good complement to those of the SFWMD and the Task Force. The work of the Task Force and SFWMD would be enhanced by a more integrated decision process for land use planning decisions.

The Task Force, the SFWMD, and the Governor's Commission for a Sustainable South Florida have different but overlapping policies for ecosystem restoration. The linkage of different entities which have different missions and functions provides mutual reinforcement. Because it is a combination of federal and state efforts, the overall influence of restoration policies and projects is wide ranging.

## CONCLUSIONS

### Recommendations to the Reader

The following observations should be used to think about CALFED Bay-Delta Program (CALFED) challenges rather than as solid evidence about performance characteristics of the types of programs reviewed. There were some common themes and challenges, but conclusions about successes and difficulties relative to program characteristics would ultimately be defensible only if several programs of similar types were compared. For example, the problems in the Columbia Gorge National Scenic Area should not be taken as evidence that federal legislation and authority should be avoided at all cost or is the only way to ensure consistency and compliance with objectives. It does provide insight into how such an arrangement *may* be unsatisfactory, and suggests how those problems might be avoided.

Decisions about institutional models, outreach needs and other program elements should be approached with an understanding of how CALFED conditions either reflect or contrast with those of the programs presented.

### Issues Common to CALFED and the Programs Reviewed

- **Institutional Structure and Political Stability**

CALFED will be considering what institutional arrangement is appropriate to administer the ecosystem restoration program and the overall CALFED program. The research to date indicates there is no ideal structure; rather, program needs require tradeoffs based on specific resource and political issues.

The Chesapeake Bay Program indicates that a voluntary agreement gives the program flexibility and promotes creativity, but maintaining even commitment among decision makers can be a problem. The setup allows flexibility but can slow down progress toward goals. The Columbia Gorge program indicates that voluntary efforts were ineffectual. It was not until a more authoritative structure was created that resource issues were managed effectively and consistently. Perceptions that the Gorge Commission acted arbitrarily may have damaged its ability to carry out its mission. Should the Commission not be able to perform, some goals may not be achieved. The South Florida Ecosystem Restoration Task Force represents an integrated, collaborative approach to resource problem solving, but the participants are committed to the arrangement by Congressional directive. The approach is too new to determine what sorts of successes and challenges the framework produces.

What appeared to be significant in all programs was the effect of having participants with decision making authority directly involved with the programs. Having executives in the Chesapeake Bay Program and in the South Florida Ecosystem Restoration Task Force provides a

high degree of legitimacy and removes a layer of bureaucracy. Since decisions are consensus based, agreements by policy makers are mutually reinforcing and tend to be unifying. The appearance of political solidarity by ranking participants may be a key element in program successes. It is worth contemplating whether direct involvement by senior public sector figures might have increased acceptance of the Gorge's policies in its given institutional form or in some alternative model that could meet resource needs.

There was comment that the real strength of the Chesapeake Bay structure is the fact that the majority of the principals to the agreement are elected. This conveys a sense that the public supports the program's efforts because it is being directed by their chosen representatives and reduces the appearance that it is a bureaucratic solution. The South Florida Ecosystem Task Force is predominately department and agency driven but it is a collaborative arrangement. It has the potential to demonstrate public sector ability to move away from stereotypical compartmentalized behavior, producing more efficient performance.

CALFED workgroup participants have voiced concerns that agreements among regulatory entities do not allow for administrative creativity because participating agencies are constrained by their regulations and operational rules. The South Florida Ecosystem Restoration Task Force is too new to be able to evaluate whether that concern has manifested itself. The Task Force is atypical in that top policy makers are directly involved. That could increase its flexibility over time compared to similar arrangements farther down the department and agency policy ladder.

The other CALFED concern with regard to institutional design is the ability of an entity to remain stable regardless of philosophical shifts in political administrations. The Chesapeake Bay Program has had some challenges with regard to this issue but has maintained its momentum. The Program has been buffered by the fact that when one participant is a political dissenter, the culture of the program, due to its longevity and the majority outlook of other participants, creates a disincentive to act inconsistently. The Program has not experienced a majority shift in opinions, so it is not known how that condition would affect program commitment and performance. The South Florida Ecosystem Restoration Task Force comprises both federal and state executives. Both administrations appear evenly committed to environmental solutions and cooperative relationships. Again, it is too new to know how a philosophical shift at either the state or the federal level might affect Task Force performance. Although the Columbia River Gorge Commission is a balance of state and local participants, something about the combination has been unsatisfactory. It was suggested that the influential nature of governors' appointees overwhelmed county-appointed participants early in the process, though this has changed.

Discussion during interviews included observations that an independent entity with stakeholder representation and a single focus has advantages such as not having to balance decisions about policy with broader agenda requirements. It also gives stakeholders a greater sense of buy-in. The disadvantage is that such an entity can't avoid being a policy petitioner rather than a policy maker. The Governor's Commission for a Sustainable South Florida has

been successful at educating and influencing a broad range of interests, but it ultimately cannot achieve its objectives unless recommendations are accepted by those who have the power to implement them. Different interests interviewed for both the Chesapeake Bay Program and the South Florida Ecosystem Restoration Task Force made strong statements about the need to have senior decision-makers at the policy table. A process in which lower level staff attended but did not have authority to commit to agreements was seen as an inefficient use of resources and an obstacle to effective program performance.

There is probably no way to design an institutional authority which is immune to political changes. While research for this report is limited, program successes suggest that a diversity of high-level decision makers provide the most effective and stable type of arrangement.

- **Science and Administration**

Only in the judicial solution for Everglades was science shielded from the political process. The terms of restoration and the timetable were specified in the settlement agreement/consent decree. In all other instances other than emergencies, policy makers felt decision making was a balance between science and equity, and between science and public support. This doesn't necessarily mean goals cannot be reached; only that it may take longer to reach them.

The three factors which most seemed to influence support for science were independent peer review, abundant technical review, and visible results early in program efforts. Other than critical issues, such as the *Pfisteria* outbreak in Chesapeake tributaries, projects which tended to get funded were those in which fairly rapid results could be observed and understood by the public. Decisions in these instances were made in order to show the public that restoration works and to boost support for further efforts. There was often overlap of natural system needs and visible results, such as reducing nutrients and achieving better water clarity.

Models as predictive devices got qualified high marks. In cases where models had been used for some time, there was some concern that programs can become too scientifically and politically invested in having outcomes match models, even when monitoring indicates different conditions. Good monitoring programs with appropriate measurement components and independent review of data can help reduce the tendency.

- **Funding Stability**

None of the programs researched had fail-safe funding sources. There were repeated problems getting authorized funds appropriated. The Chesapeake Bay Program did not appear to have as much difficulty as the other programs, in part because some of its characteristics are different from the other programs. Its budget has been in place for a considerable length of time, and the program has not recently needed large start-up funds. The federal funds it receives are for administration and program infrastructure: the states fund the various clean-up projects.

The Columbia River Gorge program had difficulty getting authorized funds for the Scenic Area. Different sources believe that the influence of two U. S. senators on appropriations committees made the difference between having funding and having parts of the program languish without the necessary dollars. For the Task Force, funding for the Critical Projects has not been fully appropriated. It was not clear whether funds have not been made available because some projects are not yet underway or whether projects are not underway because funding has not come through.

All programs made use of federal grants from a variety of sources. Ongoing arrangements, such as the EPA grant program to Chesapeake Bay Program participants, or the Congressionally mandated federal employee status of the Executive Director for the South Florida Ecosystem Restoration Task Force, are fairly reliable. Annual grant programs to fill in for funding shortfalls, such as the strategy being used by The Columbia River Gorge Commission, are not perceived as being a stable substitute for more permanent revenue sources.

The Columbia Gorge Commission has been most affected by funding cutbacks since it relies on a single source. As with institutional structure, having a diversity of sources and agreements to supply funding appears to create a buffering effect.

- **Outreach/Constituency Building**

The Chesapeake Bay Program was acknowledged by all interests as having excellent outreach. It was due in part to having an independent organization specializing in public participation techniques handle many of the outreach requirements. Market-type surveying has helped the program identify public information needs, and its 'The Bay Starts Here' public education campaign helped move knowledge about Bay needs into tributaries, where program efforts are increasing. The Bay has the advantage of being an entity that people identify with strongly. This makes public education efforts in the mainstem more effective: people have a developed sense of affection for it.

The South Florida Ecosystem Restoration Task Force has formed an outreach committee within the last year. It was established in response to program needs for more diverse input. Because it is so new, there is no way to evaluate its effectiveness yet. There is potentially a large audience for Task Force efforts because of Everglades National Park. The public tends to support park protection and restoration efforts. In addition, the park is both a World Biosphere Reserve and a World Heritage Site, so it has international recognition.

The Columbia Gorge Commission did little outreach, in part because of inadequate funding. Its current dilemma provides a significant lesson on the importance of outreach and public constituency building. Both Washington and Oregon legislatures have cut the Commission's budget for political reasons, and there is no wide-spread public support which might have convinced the legislatures that the budget cuts would not be acceptable. The

National Scenic Area designation does send a signal that its scenic values are important, but it is unclear how much influence a national constituency would have without a local linkage.

CALFED has a potential outreach challenge with regard to the Delta. When people beyond Sacramento hear 'Bay-Delta,' the identity is most likely to be almost exclusively the San Francisco Bay. The Sacramento Delta does not have the recognition or cachet of the San Francisco or Chesapeake Bay. Since other programs demonstrate that public support is critical to political commitment, it might help CALFED to determine how much the public really knows about the resource value of the Delta.

It should not be assumed that because citizens voted for Proposition 204 they understand the ecological importance of the Delta. If they do not, continued public support for program efforts may not be reliable. It may be important to understand how much support for Proposition 204 was because of environmental awareness of the Delta as opposed to interest in tap-water supply.

- **Local Government Relations**

All programs acknowledge that building good working relationships with local governments is critical to program success. The Chesapeake Bay Program is concentrating on local government relationships since land use planning is crucial to success of the program in the tributaries. The South Florida Ecosystem Restoration Task Force is also making local government outreach a fundamental part of their program since cooperation on objectives such as demand management and sustainable development are essential to Restudy effectiveness.

The Columbia Gorge has always had a challenge since its relationship with local governments has been authoritative, and some governments were likely to resent its position regardless of outreach. Still, the perceived unwillingness of the Commission to work more collaboratively with local governments has had a negative effect on the program that may linger for some time.

- **Stakeholder Involvement in Policy Decisions**

No program seems to have found the solution to stakeholder involvement for decision making that fully satisfies all interested parties. It is difficult to accommodate interests who do not have the legal authority to commit public sector resources that department and agency participants possess. As expected, the programs themselves seem to be more satisfied with stakeholder involvement techniques than some of the stakeholders.

It was unclear from research to date whether there are programs that better satisfy interest group demands for policy influence. The assumption is that satisfaction might come from a combination of managing expectations and working with groups to provide a sense that decision

making is cooperative and equitable to the maximum extent regulations will allow. Additional research on this topic might produce other models for stakeholder participation to consider.

- **Assurances and Contingencies**

No program could assure all outcomes as originally envisioned since there are too many externalities that influence natural systems. In addition, complex systems dynamics in ecosystems such as Chesapeake Bay watershed and the Everglades are not well understood. Science for the Chesapeake Bay Program has produced surprising findings from the beginning of the program. Such findings usually require policy adaptations. Findings that will require modeling changes have occurred as recently as the last year. Exigencies such as *Pfisteria* outbreaks will require difficult policy decisions that will produce unavoidable impacts on certain groups. The challenge in such situations is to reduce impacts to the extent possible. For example, the Program has no way to influence externalities such as airborne nitrogen from out-of-state emissions that are carried to the Bay, so it must adapt policies and targets to accommodate to circumstances.

For Everglades restoration efforts, the C&SF Project has created so many unintended consequences and has so altered natural systems that predicting timing and characteristics of various stages of recovery with absolute accuracy is unlikely. Because of water management practices, an area of once-wet ground became dry during traditional nesting season for the Cape Sable seaside sparrow, currently at extreme low population levels. Withholding water to comply with Endangered Species Act protection of the sparrow during nesting season will flood homes on Miccosukee tribal lands unless other water management strategies are used. The decision was made to open gaps in other parts of the water distribution system, but most water will have to be shunted out of the area to estuaries. This approach may cause negative consequences to estuarine resources and create new restoration issues.

Patience toward the process, demonstration of good faith effort, and accepting the concept that sharing risks and adversity is more likely to produce shared benefits have been important elements for building sustainable relationships. The Chesapeake Bay Program's modeling of what the Bay might look like without the cooperation and effort to date has been a good tool to reinforce existing support. For The Chesapeake Bay Program and the South Florida efforts, it has also been important for different interests to acknowledge that assurances need to be a two-way street.

### **Summary of Research**

The research was done to provide CALFED participants with general information on structural and performance characteristics of different programs. It should be considered a synoptic description of program components that provides enough general knowledge to pursue more specific information through the offices listed at page 52.

Information from the research is useful, but it is not conclusive. It would be desirable to look at additional programs for two general purposes:

- To gain additional insight into common policy and administrative challenges as well as successful program responses. This could provide information about how to avoid certain outcomes and increase the potential for others. Issues from the research that appear to have significant impact on program success are constituency building and stakeholder support, consensus building, land use planning, and local government involvement.
- To find out more about more focused programs that apply to targeted areas of CALFED efforts.

Additional programs that may be instructive include the following:

- Land trusts which provide for agricultural uses while protecting land from conversion to development, and conservancies that purchase lands for habitat. Specific programs in California such as the California Coastal Conservancy, the Tahoe Conservancy and the Santa Monica Mountains Conservancy might be good sources of information. National programs such as the American Farmland Trust and The Trust for Public Lands are other programs to investigate.
- Regional land use planning efforts such as the Tahoe Regional Planning Agency, which uses scientific information as a basis for development of land use regulations, should be explored. The research on TRPA would dovetail well with land purchase research since efforts of the Tahoe Conservancy are linked to TRPA land use planning.
- The Delta Protection Commission provides a convenient and appropriate model for regional planning and local government involvement and coordination in the Sacramento Delta. Research could focus on the function it was designed to serve, strategies it has developed, and how it might incorporate CALFED efforts.

In addition to new research, some of the particulars of the three programs in this report merit additional attention. The Alliance for the Chesapeake Bay is an intriguing model for constituency building. It has an independent program and focuses on citizen education on Bay issues but works extensively with the Chesapeake Bay Program. Its position between the Chesapeake Bay Program and its other citizen efforts may provide insights into how best to approach Bay-Delta public involvement. The Chesapeake Bay Program's initiatives for local government involvement also warrant further investigation.

The Columbia River Gorge may provide additional information on regional land use planning, particularly when there are conflicts over land use regulations. Oregon's appeal process may be a model to look at not only for land use planning purposes, but as a model for an assessment of quasi-judicial decision making.

The Governor's Commission for a Sustainable South Florida was repeatedly referred to for its consensus building achievements. It would be valuable to find out more of the particulars of its success. In addition, the Preservation 2000 program for leveraged funding of land purchases is another potential source of land preservation strategies. The 1996 Farm Bill provided additional funding for purchase of lands to become part of the Army Corps of Engineers' water management efforts. The Framework Agreement for conflicts that may arise over land uses subsequent to purchase would also be a model to explore for ideas.

There are other programs and issues that could be explored, but limitations on budget and staffing make a comprehensive research project that can meet all interests' expectations unlikely. Focused research on challenges of successful organizational development is appropriate and timely but uncertain with present staff and resource constraints.

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- USACE Jacksonville Office. 1997. Development of the C&SF Project. <[www.restudy.org/history/htm](http://www.restudy.org/history/htm)> (Accessed 01/26/98).

**List of Contact Offices**

<b>Offices to Contact for the Chesapeake Bay Program:</b>	
<p>Chesapeake Bay Program 410 Severn Avenue, Suite 110 Annapolis, MD 21403 (800) 968-7229</p> <p>www.chesapeakebay.net</p>	<p>Chesapeake Bay Commission 60 West Street, Suite 200 Annapolis, MD 21401 (410) 263-9338</p> <p>www2.ari.net/cbc</p>
<p>Alliance for the Chesapeake Bay P.O. Box 1981 Richmond, VA 23218 800-662-CRIS</p> <p>Web site: www.gmu.edu/bios/Bay/acb</p>	<p>Chesapeake Bay Trust 60 West Street, Suite 200A Annapolis, MD 21401 (410) 974-2941</p> <p>Web site: www2.ari.net/cbt</p>
<b>Offices to Contact for the Columbia River Gorge Scenic Area</b>	
<p>Columbia River Gorge Scenic Area 902 Wasco Avenue, Suite 200 Hood River, OR 97031 (541) 386-2333</p> <p>No Web site</p>	<p>Columbia River Gorge Commission Box 730 White Salmon, WA 98672 (509) 493-3323</p> <p>No Web site</p>
<b>Offices to Contact for the Restudy and the South Florida Water Management District</b>	
<p>South Florida Ecosystem Restoration Task Force c/o Florida International University OE Building, Room 148 University Park Campus Miami, FL 33199 (305) 348-1665</p> <p>Web site: www.restudy.org www.sfrestore.org</p>	<p>South Florida Water Management District P.O. Box 24680 West Palm Beach, FL 33406-4680 (561) 686-6202</p> <p>Web sites: www.restudy.org www.sfrestore.org</p>
<p>Governor's Commission for a Sustainable South Florida 1550 Madruga Avenue, Suite 200 Coral Gables, FL 33146</p> <p>Web site: www.dos.state.fl.us/fgils/agencies/sust</p>	



**List of Interviews**

Name and Title	Organization	Date
Barnett, Ernest Director	Florida Department of Environment Protection Ecosystem Planning and Coordination	01/26/98
Boesch, Donald, Dr. President	University of Maryland Center for Environmental Science	01/15/98
Brown, Brad, Dr. Director	National Marine Fisheries Service Southeast Fisheries Science Center	01/20/98
Burke, Thomas Associate Director	Maryland Department of Natural Resources Outreach, Policy and Planning Chesapeake Bay Policy Division	12/17/97
Devaney, Dorothy Director	Wasco Planning Department (Oregon)	01/22/98
Doherty, Jonathan Executive Director	Columbia River Gorge Commission	12/16/97
Flanigan, Fran Executive Director	Alliance for the Chesapeake Bay	01/06/98
Harvey, Richard Director	USEPA South Florida Field Office	01/19/98
Hess, Jergen Planning/Design Staff Officer	USDA Forest Service Columbia River Gorge National Scenic Area	01/16/98
Hirschfeld, Mike, Dr. Vice President	Chesapeake Bay Foundation Resource Protection Programs	19/19/97
Kranzer, Bonnie, Dr. Executive Director	Governor's Commission for a Sustainable South Florida	12/22/97
Lang, Michael Conservation Director	Friends of the Columbia Gorge	01/19/98
Matuszeski, William Director	USEPA Chesapeake Bay Program Office	12/24/97
Minock, Larry Coordination and Facilitation	Virginia Department of Environmental Quality Chesapeake Bay Program	12/22/97
Outland, John Environmental Manager	Florida Department of Environment Protection Ecosystem Planning and Coordination	01/29/98
Morrison, Doug Former Science Subgroup Representative	U.S. Fish and Wildlife Service (presently with Sacramento Office)	01/29/98
Poole, Sam Executive Director	South Florida Water Management District	01/13/98
Salt, Terrence "Rock" Executive Director	South Florida Ecosystem Restoration Task Force	12/18/97
Swanson, Ann Executive Director	Chesapeake Bay Commission	12/19/97