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Implementing Everglades Restoration

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IMPLEMENTING EVERGLADES RESTORATION*

MARY DOYLE**

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I. INTRODUCTION

I am going to talk about Everglades restoration this evening, dividing my talk into two parts. First, I want to offer a few reflections on the passage of the Everglades authorization in the last session of the U.S. Congress. What lessons did we learn about the future of the restoration effort from the arduous experience of seeing the legislation passed? Second, I will commend three issues worth watching closely over the next period as we seek to assess how effectively the Everglades restoration plan is working.

II. REFLECTIONS ON THE PASSAGE OF THE EVERGLADES AUTHORIZATION

My memory runs back to a sunny Friday morning on Capitol Hill in early November of 2000. In fact, it is the Friday before the Tuesday on which the hard fought presidential election is supposed to be decided. On the floor of the House of Representatives there is only one piece of business before the long-delayed adjournment of the session: adoption of the Army Corps of Engineers' project authorization bill whose major component is Everglades restoration. This morning the bill passes the House by acclamation, as it had passed in the Senate. It is a love fest. Many speeches are delivered crediting Congressman Clay Shaw, head of the Florida delegation and locked in a very close race for reelection, for getting the

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legislation through. Not a dissenting voice is raised. After the vote, the ceremony moves out to the front lawn of the Capitol for a press briefing. My boss, Secretary of the Interior Bruce Babbitt, is there, and House Speaker Dennis Hastert drops by to say a few words. There are congratulations all around. The South Florida Water Management District ("SFWMD") had the foresight and good taste to send their mascot—actually a guy in a giant green plush alligator outfit. He is seven-foot-tall and sticks to Congressman Shaw like glue, so the pictures in the national press the next day feature the Congressman in the clutches of the velvety green monster.

Now turn the clock back again, this time to the early 1990s. Put yourself in the shoes of Florida or federal officials or leaders of environmental groups desiring ultimately to get Everglades restoration funded in congress. What if you had told them, as they were speculating about the political future back then, that when the legislation was finally ripe for submission to Congress, the circumstances would be these:

- (i) The Senate and House would both be in GOP hands;
- (ii) The Congressional leadership would be locked in a brutal budget war with the Democratic president, whom they had earlier impeached;
- (iii) A Republican would have been elected governor of Florida, defeating a Democrat closely associated with the cause of Everglades restoration;
- (iv) This Republican governor of Florida is the brother of the GOP candidate for President, who would be engaged with his Democratic opponent, himself a long-time champion of Everglades restoration, in one of the closest and most indecipherable presidential contests in history;
- (v) Adding to all that, you tell them in the early 1990s that just before the Everglades bill is to get to Congress, Senator John Chafee of Rhode Island, a true environmentalist long head of the Senate Environment and Public Works Committee, would be lost to death and be succeeded as chairman by Bob Smith of New Hampshire, the self-proclaimed most conservative member of Congress who once quit the Republican party on grounds that it is too liberal.

Back in the early 1990s, had the leaders of the cause of restoration known of these political developments to come, could they have mustered any optimism whatsoever for successful passage of the authorizing legislation? Could anyone ten years ago have foreseen the unlikely love fest that took place on Capitol Hill on the Friday before the election of the year 2000?

How it all happened – the struggles, the strategies and fortuities, the alignment of the political stars – makes a great story, one that needs to be told and retold. Like all good stories, this is one full of paradox and irony. I would like to offer just a few observations on this amazing political tale, focused on the themes of personality, politics, conflict and coalitions.

First, on personality and election politics: Senator Bob Smith of New Hampshire proved to be one of the Everglades' most effective champions. Somewhere along the way he fell deeply, unabashedly in love with the subtle beauty of "America's Everglades." He did everything he promised to do in moving the bill through the Senate, and more. Governor Jeb Bush delivered too. Lesson learned: Take your support from whence it comes. Stay open to unlikely possibilities.

It turned out that Florida's 25 electoral votes were up for grabs in the presidential election of 2000, and not a lock for the Republicans as some had anticipated. This significantly advantaged the cause of Everglades restoration in Congress. Polls showed Floridians wanted the Everglades saved, by margins of more than two-to-one, and they were willing to pay for it. Neither political party could afford to antagonize the voters of Florida by opposing the Everglades cause. Lesson learned: Public support is crucial. If public support is lost, the cause is lost. And public support needs to be continuously cultivated by education and advocacy.

About conflicts and coalitions: The Everglades bill passed the Senate, and by the time it was introduced in the House of Representatives there was unanimous support for it among all interested constituents and stakeholders in Florida. In fact, the bill arrived at the House without any serious opposition. This did not just happen. It was the product of endless hours of sometimes tense negotiation among government officials and stakeholders. In the end the contending interest each concluded that they wanted the bill more than they wanted to fight. Each understood that without unanimity, the bill would not make it through Congress. Without unanimity among the Everglades stakeholders, senators and representatives from other parts of the country would say: "Why should we put \$4 billion in federal funding into Florida if the Florida interests cannot agree on what they want?"

The irony here is that anyone closely associated with Everglades restoration over the years will talk about the disputes, the fights, the conflict, even acrimony and personal hostilities that frequently have attended decision-making affecting the Everglades. Disputation is endemic to relations among agencies and people connected to the Everglades. The Army Corps of Engineers, the National Park Service, and the Fish and Wildlife Service have their territorial and cultural rivalries with each other and with outsiders. The Micosukkee tribe brings a lot of lawsuits against the other participants. The State of Florida and the federal government have differing views on the benefits to be delivered by restoration. The environmentalists oppose the sugar industry, and vice versa. The farmers in South Dade County are usually ticked off at the SFWMD and Everglades National Park. And there are conflicts within constituent entities too.

Most of these conflicts will persist as the restoration project moves forward; some will intensify. That is because this is an ecosystem-wide effort that brings together agencies that are not used to working together. They have different goals, budgets, constituents, mandates, cultures and histories. Overcoming and resolving conflict are prominent among the historic challenges presented here.

We will always remember Tom Adams of National Audobon, and Bob Dawson, representing sugar and urban interests, walking the halls of Congress together in support of the bill. Bob says the act of finding unanimity in support of the legislation itself has the potential to change the future of the Everglades restoration effort; that finding consensus on the bill will have its own positive precedential force. Lesson learned: We know now that consensus is possible because we saw it accomplished.

III. THREE ISSUES WORTH WATCHING

I would like to devote my remaining time this evening to pointing out for you three issues to follow in assessing whether the restoration plan is being implemented as intended. First: watch the status and the progress of the state-federal relationship in the plan's implementation.

A. *State-Federal Relationship*

The State of Florida and the federal government are entering an unprecedented partnership of shared costs, authorities, and responsibilities. This partnership will manifest in several ways. One is that the State and federal government will share equally the cost of construction, operation, and maintenance of the project. This

50-50 financial arrangement is unique for Army Corps projects; usually the federal government pays substantially less than half the cost of construction and the state partner pays the entire cost of operation and maintenance.

Another aspect of the partnership is the requirement that the Governor of Florida and the President of the United States enter into a "binding agreement" in which the Governor promises to use Florida law to ensure that water developed by the project will be available to restore the natural system, as contemplated by the plan, and not diverted or permitted away to support more urban growth and development in South Florida. Future Congressional appropriations are dependent upon getting the binding agreement in place.

A third aspect of the partnership will be played out in development of the "programmatic regulations" called for in the legislation, whose purpose is to lay out the course of implementation and establish substantive interim goals "to ensure that the ...purposes of the Plan are achieved." The Army Corps is required to secure the concurrence of the Governor of Florida (as well as the Secretary of the Interior) in the promulgation of these regulations.

In watching the state-federal partnership unfold, we should ask: Are both governments meeting their obligations to fund the project? What issues have the parties identified in drafting and implementing the binding agreement between the President and the Governor? What are the disagreements between them, if any? Are the federal agencies getting themselves staffed and otherwise prepared to monitor accurately the water permitting and planning activities of the SFWMD in order to determine whether the State is complying with the binding agreement? What processes have the state and federal agencies adopted for development of the programmatic regulations? Of particular interest is how the interim goals called for in the programmatic regulations are being developed. How have the agencies provided for public participation in developing the programmatic regulations?

B. Science Underpinning the Project

The second issue deserving our attention as implementation proceeds is how the science underpinning the project is practiced and reviewed. The Everglades restoration plan is science-based. It accepts the reality of scientific uncertainty and commits to a regime of "adaptive management," whereby we monitor results and refine or change course as we learn more. A question that interests me lies in the relation of adaptive management to coalition building and maintenance. How will we hold together a stakeholder coalition

supporting the scientific and technical approaches taken in the current plan (like aquifer storage and recovery) if the scientists later opine that these approaches are not working as promised and need to be altered?

Scientific peer review is a necessity. Congress requires it, as does good scientific practice. But how do we best organize and deliver peer review? The path to establishing the National Academy of Sciences peer review panel under the auspices of the South Florida Ecosystem Restoration Task Force has been rocky. There was contention on the questions of what issues the panel would look at, and who would determine the panel's work agenda. The tendency of policy-makers is to restrict and control inquiry by peer reviewers from outside. But this can tend to undermine their independence, and call into question the legitimacy of their ultimate conclusions. So the question of how best to organize and deliver effective scientific peer review is unresolved and filled with difficult and contentious issues.

Science budgets are limited. Government decision-makers must wrestle with how the scarce dollars should be divided between longer range, more theoretical research into various aspects of ecosystem recovery, and immediately helpful and practically oriented scientific inquiry, such as operating pilot projects and monitoring the results of actions taken.

C. Stakeholder Coalitions

The third implementation issue that bears watching is how effectively stakeholder coalitions are maintained over the next period. We would not have come this far without the truly remarkable work of the Governor's Commission for a Sustainable South Florida, chaired by Dick Pettigrew in the early 1990s. Agreements hammered out by stakeholders in meetings of the Governor's Commission later led to broad support for the Army Corps' restoration plan and to the virtually unanimous support for the authorizing legislation I have described.

There is no such entity functioning now. The South Florida Ecosystem Restoration Task Force, authorized and funded by Congress, is currently in existence, but is not appropriately constituted to perform the task of dispute resolution in its most varied and comprehensive aspects. The Task Force is made up of 14 governmental entities: federal, state, local, and tribal. It is poorly constituted as a forum for the resolution of specific inter-agency and inter-governmental disputes. Most such disputes can be expected to be bi-lateral between the Army Corps and the SFWMD, or at the most tri-lateral, involving the Army Corps, the Department of the

Interior, and the SFWMD. These agencies will resist the intervention of the Task Force, representing as it does entities not party to the dispute in question. Conversely, the Task Force is under-representative when it comes to building stakeholder support because, unlike the defunct Governor's Commission, it has no non-governmental members representing interested communities.

Constituent education, and developing and retaining consensus, are ongoing challenges. We do not have the right mechanisms in place to do the job now. On a hopeful note, the SFWMD has recently established an advisory committee of government and non-government representatives to advise it in connection with implementation of the plan. This entity may prove a useful forum for working through disputed issues in the future.

IV. CONCLUSION

In conclusion, let us remind ourselves that the Everglades project is the most fully realized and best funded ecosystem restoration effort ever undertaken by humankind. What we do here in managing the application of science, adaptive management, dispute avoidance and resolution, and coalition building is crucial not only for South Florida and our state, but for the future of the ecosystem-wide approach to environmental restoration. We are the pioneers others will look to. I urge you all to stay involved and committed to this great project over the years to come, and to encourage others to do the same.