

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

United States of America, et al.,)	
)	
Plaintiff,)	
v.)	Case No. 88-1886-CIV-MORENO
)	
South Florida Water Management)	
District, <i>et al.</i>)	
)	
Defendants.)	
_____)	

**PLAINTIFF INTERVENORS SIERRA CLUB ET AL.’S CONSOLIDATED
RESPONSE TO ALL PARTIES COMMENTS ON THE REPORT OF THE
SPECIAL MASTER**

Plaintiffs-Intervenors Sierra Club, National Wildlife Federation, Florida Wildlife Federation, Defenders of Wildlife, Wilderness Society, National Parks and Conservation, Florida Chapter Sierra Club, and Audubon Society of the Everglades (“Conservation Interests”) provide this response to all parties’ comments on the report of the Special Master filed July 5, 2006.

The Sugar Industry, the State and the District contend that this Court lacks the legal authority to order the remedies recommended by the Special Master. That claim was rejected by the Court’s order of June 1, 2005 at page 13-14 [D.E. 1935] and need not be reargued here. The United States, the State, U.S. Sugar and the District also reiterate their previous argument that they have voluntarily “committed” to cure any violations of the Consent Decree, which commitment moots the issue of remedies. That claim was also rejected in the Court’s June 1, 2005 order, which found that the “issue cannot be moot unless there are some binding requirements.” [D.E. 1935 at p. 14]. No further argument on that issue is needed. The Conservationists respectfully submit that

the fact that these parties so strenuously object to the proposition of binding requirements casts a shadow of uncertainty over the veracity of their commitment.

The State, the Farm Interests and the District contend that no violation of the Consent Decree has occurred because the method of measuring violations is defective. As thoroughly explained in the Special Master's report, this complaint is with the method of measurement agreed to in the Consent Decree and is not a cognizable complaint. See Order of June 1, 2005, pp. 8-9 n.9 [D.E. 1935].

The Consent Decree leaves no doubt that full compliance with long term water quality standards is required by the end of this year. However, the Special Master's report recommends construction deadlines in Appendix A that go beyond that date. The Conservation Interests' preference would be to move the dates to the central part of the feasibility range for completion dates rather than the latest possible dates, however the Conservationists are willing to accept the dates proposed by the Special Master. Accordingly, the Conservation Interests request this Court to reject the objections to the recommendations of the Special Master and order the settling parties to comply with the deadlines (their own deadlines) laid out in Appendix A to the Special Master's Report.

Respectfully submitted,

By:

/s/ David G. Guest

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic filing this 12th day of October, 2006 on:

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