

Ceitus Boat Lift/Barrier Ecosystem Management Agreement Petitioners Position, May 21, 2009

The petitioners are of the view that significant ecosystem benefits would be gained by replacement of the Ceitus Boat Lift/Barrier with a replacement barrier at a more northerly location as specified in the DEP/Cape Coral Second Amended Consent Order of May 2008. However, the petitioners also believe that even greater ecosystem benefits would be gained (and the replacement barrier would be unnecessary) if the EMA stakeholders were to agree on the following package of Net Ecosystem Benefit projects designed to improve and maintain (through build-out) the canal waters of Cape Coral.

Essential Projects:

- (1) Cape Coral ordinance restricting the use of fertilizer (similar to that adopted by other area coastal jurisdictions).
- (2) Cape Coral ordinance promoting the use of fish-friendly sloped canal banks and rip-rap (in lieu of or as a supplement to bulkheads), the growth of mangroves, and production of shellfish in Cape Coral canals.
- (3) Cape Coral ordinance establishing a reasonable and timely schedule (including a funding schedule) for the expansion of central sewer service to all of Cape Coral.
- (4) A binding arrangement to build one or more reservoirs with filter marshes in the watershed area to divert, capture, clean, and appropriately release storm water. The storage capacity should be equal to or greater than the original design storage capacity of the North Spreader System. An interlocal agreement by Cape Coral, DEP, SFWMD, and Lee County should establish a commission for this purpose and the \$3.5 million in escrow funds (presently designated for Ceitus barrier replacement) should be made available for site purchase and construction.

The petitioners believe the above projects to be essential to an EMA if the barrier is not replaced. The following projects, while also environmentally beneficial, are not essential to a consensual EMA.

Cape Coral Projects:

- (1) Aquifer storage and recovery (reducing flows by 1.5%).
- (2) Canal pump optimization for irrigation (reducing flows by 14%).
- (3) Weir enhancements.
- (4) Storm water inlet improvements.

Lee County Projects:

- (1) Gator Slough/Powell Creek hydrologic restoration (reducing flows by 0.5%).
- (2) Gator Slough to Yellow Fever Creek Diversion (reducing flows by 1.5%).
- (3) Matlacha Pass hydrologic restoration (redirecting flows from Burnt Store Road area to Greenwell Branch—reducing flows by 1.5%).

DEP Project:

Create additional flow paths between the North Spreader Canal and the Key Ditch to better distribute the storm water and rehydrate the wetlands. This project, while not essential to an EMA, is particularly desirable for environmental benefits to the wetlands and the aquatic preserves.

The nonessential but beneficial Cape Coral/Lee County/DEP projects listed above may be included in the EMA if the other EMA stakeholders so desire, but the petitioners do not regard them as necessary to an agreement. EMA consensus that includes the four essential NEB's

listed above requires agreement of the City of Cape Coral, as well the DEP and Lee County (and preferably the SFWMD). If any one of those organizations or a significant number of other stakeholders do not agree on inclusion of the essential NEB's listed above by end of the twelve month EMA period, and no alternative agreement is reached, per the terms of the Second Amended Consent Order, the replacement barrier must be constructed at the specified location.

If this position paper is adopted by EMA consensus, it is absolutely necessary that binding EMA provisions require that the three ordinances listed above as well as the binding agreement for the reservoir be adopted within a set period (we suggest 180 days) after stakeholder approval of the EMA. Adoption of the three ordinances and the binding agreement for the reservoir within the set period would satisfy all requirements of the EMA, trigger reassignment of the \$3.5 million escrow funds to help finance purchase and construction of the reservoir, and render the Consent Order of no further effect. If the three ordinances and reservoir arrangement are adopted, the petitioner environmental organizations would join the implementing agencies in seeking grants to help finance the projects. Failure to adopt the three ordinances and the binding reservoir arrangement within the set period would automatically trigger a requirement that the barrier be replaced per the proposed provisions of the EMA and the existing provisions of the Second Amended Consent Order.

This position paper was drafted by Phil Buchanan on May 5, 2009. It was discussed and voted upon at a petitioner meeting on May 21, 2009. The vote was 10 to 1 in favor of the position, with the Snook Foundation, Greater Pine Island Civic Association, PURRE, Riverwatch, SWF Watershed Council, Audubon, SCCF, Responsible Growth Management Coalition, Phil Buchanan, and Noel Andress voting yes, and the Calusa Land Trust voting no (the CLT prefers reconstruction of the Ceitus barrier). This paper will be presented at the EMS stakeholder meeting on May 26, 2009.