

APPENDIX D--MANAGEMENT AUTHORITIES AND DIRECTION

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MANAGEMENT AUTHORITY AND DIRECTION

The number and variety of local, regional, state and federal agencies and non-governmental entities involved with the Myakka River reflect the broad scope of this management plan. The discussion of authorizing statutes, rules, and policies is organized according to the governmental bodies in which authority is vested, beginning with DNR, Sarasota County, and the City of North Port as the primary management agencies.

PRIMARY MANAGEMENT AGENCIES

The Department of Natural Resources is the lead agency responsible for implementing the management plan for the Myakka Wild and Scenic River. Sarasota County and the City of North Port also have a primary role in the management of land uses surrounding the Myakka River.

Department of Natural Resources

Executive authority for administration and management of the Myakka Wild and Scenic River ultimately lies with the Governor and Cabinet, serving as the Executive Board of the Department of Natural Resources. The DNR's basic authority for planning and implementing a plan for managing the Myakka River's resources is found in Section 258.501, Florida Statutes. This statute authorizes DNR (in conjunction with the Myakka River Management Coordinating Council) to develop and periodically amend a management plan, conduct necessary resource management activities, establish a carrying capacity for recreational use on the river, and adopt rules to regulate activities in the portion of the river designated wild and scenic.

Chapter 258, Florida Statutes, authorizes DNR's Division of Recreation and Parks (Division) to manage State-owned parks and recreation areas and to adopt rules for managing these areas. Section 258.037; Florida Statutes, declares that the policy of the Division is to acquire typical portions of the State's original environment (domain) for access by the general public, and to manage these areas so as to conserve the natural values which derive from them. In implementing this policy, the Division is authorized to cooperate with county governments in park and recreation matters (Section 258.041, Florida

Statutes), and to negotiate interagency agreements with water management districts to manage district lands reserved for recreational purposes (Section 258.004, Florida Statutes). Chapter 253, Florida Statutes, establishes the proprietary overview role of the Board of Trustees of the Internal Improvement Trust Fund in the management of sovereignty submerged lands.

Sarasota County

Chapters 125, 162, and 163, Florida Statutes, vest the County with authority to regulate use and development of private property within its jurisdiction, including property within and adjacent to the Myakka Wild and Scenic River. Specifically, Chapter 125 authorizes the County to adopt and enforce a comprehensive plan, zoning ordinances, and technical codes to regulate development for the public's health, safety and welfare. Chapter 162 authorizes the County to establish a code enforcement board to administer the zoning, subdivision, floodplain and other technical regulatory codes to control development and use of private property. Chapter 163 further clarifies and elaborates on the County's authority in the areas of comprehensive planning, zoning, technical codes and related matters.

Through the development of the county's comprehensive plan, APOXSEE, Sarasota County has already developed management guidelines for land surrounding the Myakka River.

City of North Port

Similar to Sarasota County, the City of North Port is authorized by applicable state laws to regulate the use and development of private lands for the public health, safety and welfare. A portion of the City of North Port is located within the southern portion of the Wild and Scenic segment of the Myakka River.

OTHER MANAGEMENT AGENCIES

The Southwest Florida Management District and the Game and Fresh Water Fish Commission are other agencies at the regional and state levels that will function in the direct management of the Wild and Scenic segment of the Myakka River.

Southwest Florida Water Management District

SWFWMD boundaries include most of West Central Florida in general, and specifically include the Myakka watershed in Sarasota, Manatee, Charlotte, Hardee and DeSoto Counties. The Florida Water Resources Act of 1972 (Chapter 373, Florida Statutes), is the basic source of SWFWMD's authority to acquire land and to regulate surface water and ground water management and water consumption. Specific authority for these activities is contained in Section 373, Parts II, III and IV. Section 373.59 creates the Water Management Lands Trust Fund, which is the source of funding for the Save Our Rivers Program, and authorizes SWFWMD to acquire through voluntary purchases property for a variety of management purposes, including the conservation and protection of water resources. SWFWMD is also responsible for aquatic weed control within Myakka River State Park.

Game and Fresh Water Fish Commission

Article IV, Section 9 of the Florida Constitution as well as Chapter 372, Florida Statutes, vest the FGFWFC with administrative, management and enforcement authority with respect to the State's freshwater fish and wildlife. Specific statutory sections which authorize FGFWFC activities in the river include Subsection 372.02(2), Florida Statutes, (enforcement of freshwater fishing laws); Subsection 372.072(4)(a)(1), Florida Statutes, (research and management of freshwater/upland species); and Section 372.77, Florida Statutes, (implementation of wildlife restoration projects).

OTHER AGENCIES

Federal, state, regional and local agencies, as well as non-governmental entities will play an important role in the protection and management of the Myakka River area through regulation or monitoring of activities in the drainage basin.

Federal Agencies

Seven federal agencies are involved in activities affecting the management of the river. Authority for federal involvement is based on federal codes and statutes.

U.S. Fish and Wildlife Service--33 U.S. Code (USC) 134, Clean Water Act, authorizes FWS to participate in the review of U.S. Army Corps of Engineers' (COE) dredge and fill permit applications. The FWS's participation in this activity is based on its vested interest in the conservation of wetlands as wildlife habitat for federally protected species. In addition, the FWS is authorized to administer the Endangered Species Act of 1973 (16 USC 1531, as amended). This Act seeks to ensure the continued existence of endangered species by requiring federal agencies to consult with the FWS whenever an agency's actions may be detrimental to an identified species or its habitat.

U.S. Army Corps of Engineers--Section 10 of the Rivers and Harbors Act of 1899, (33 USC 403), authorizes COE to regulate dredging of obstructions and review proposals for channel construction and improvements in navigable waterways including the Myakka River. This Act, together with Section 404 of the Clean Waters Act of 1972 (33 USC 1344, as amended), addresses COE regulatory authority in the dredge and fill permitting process. COE's joint involvement with DER in the regulation of wetlands, allows COE to indirectly participate in the State's management of the Wild and Scenic River.

U.S. Geological Survey--The USGS was established by act on March 3, 1879 (43 USC 31). The USGS, under the Department of the Interior, has the responsibility to perform surveys, investigations, and research pertaining to topography, geology, and the mineral and water resources of the United States. USGS also publishes and disseminates data relative to these activities. In the past, USGS has conducted several studies on various resources in the Charlotte Harbor region. USGS is currently involved in a study of the Peace, Myakka and Caloosahatchee watersheds and Charlotte Harbor Estuarine System. Over the life of the project, this study is expected to supply much needed data on the existing conditions and evaluate the potential impact of future

development on the water resources of the Charlotte Harbor watershed. The study will include the chemical, biological, and water quality characteristics in these basins plus flow and circulation descriptions for the Charlotte Harbor area.

U.S. Soil Conservation Service--The Soil Conservation Service (SCS) was established under the authority of the Soil Conservation Act of 1935 (16 USC 590A-F) to carry out nationwide soil and water conservation, execute watershed protection and flood protection projects in coordination with other agencies, help local sponsors develop multicounty resource conservation efforts, conduct the nationwide soil survey, provide technical assistance to farmers and ranchers and other land users, and fulfill other related functions. The SCS operates as an agency within the U.S. Department of Agriculture. The SCS operates at the local level through conservation districts legally responsible under State law for soil and water conservation with district boundaries which are usually contiguous to county boundaries. SCS services include soil and land capability mapping of the conservation district, dissemination of information concerning soil usefulness for supporting certain crops or other agricultural applications (grazing), providing recommendations on conservation measures, providing technical assistance in the design and construction of water control structures, providing information on plant variety selections and seeding methods, and providing assistance on other technical problems that may arise in agricultural resource management, such as erosion prevention.

U.S. Environmental Protection Agency--Under the National Environmental Protection Act of 1969, the U.S. Environmental Protection Agency (EPA), in cooperation with State and local governments is the federal agency responsible for the control and abatement of environmental pollution. The six areas of pollution which the EPA regulates are air, water, solid waste, noise, radiation and toxic substances. DER is the state agency responsible for handling most of these programs on a state level in lieu of the federal program. Under Section 404, EPA also reviews COE dredge and fill permit applications in the regulation of migratory birds and endangered species under the Commerce Clause.

U.S. Coast Guard--The U.S. Coast Guard is the federal agency involved in boating safety, including search and rescue when necessary. The Coast Guard is also charged with the permitting of structures which affect navigation and boating safety. These structures include bridges, causeways, aerial utilities and other structures which may be in conflict with navigational uses. DNR will also review projects which the Coast Guard may be evaluating for permits.

National Marine Fisheries Services--The National Marine Fisheries Service (NMFS), under the U.S. Department of Commerce, is active in the Charlotte Harbor area in recording commercial fish landings. The NMFS also has enforcement officers in the Charlotte Harbor area checking for illegal fishery activities.

State Agencies

In addition to the DNR and GFWFC, seven other state agencies affect the river in less direct, but nonetheless important capacities. Authority for these agencies involvement is based on various chapters of the Florida Statutes.

Department of Environmental Regulation--Chapter 403, Florida Statutes, provides for the maintenance and enhancement of water quality and wetlands protection through programs administered by DER. Section 403.061, Florida Statutes, authorizes DER to perform a variety of functions with regard to Waters of the State. As far as protection of the Wild and Scenic River is concerned, the most important Departmental responsibilities involve the establishment of ambient water quality standards, water quality sampling, regulation of known sources of pollution, dredge and fill activities, and enforcement of rules pertaining to Outstanding Florida Waters. DER's administrative rules concerning ambient water quality standards and Outstanding Florida Waters are contained in Chapter 17-3 and 17-4, FAC, respectively. Chapter 84-79, Laws of Florida, the Warren S. Henderson Wetlands Protection Act of 1984, authorizes DER to establish rules concerning water quality criteria for wetlands to enable the State to more effectively regulate use of wetlands under DER jurisdiction.

Department of Community Affairs--The Department of Community Affairs' (DCA) requirements to ensure consideration of unique natural resources, such as the Myakka River in local and regional planning, are authorized by Chapters 380 and 163, Florida Statutes. Sections 380.045, 380.05, and 380.06, Florida Statutes, respectively authorize the DCA to establish resource planning and management committees, coordinate designation of Areas of Critical State Concern, and administer the review of Developments of Regional Impact (DRI). Section 163.3184, Florida Statutes, authorizes the DCA to review and approve local government comprehensive plans. DRI's are major developments that have impacts on a scale which is greater than a county level and requires a regional review from neighboring local governments and State agencies.

Department of State--Chapter 267, Florida Statutes, vests the Division of Historical Resources (DHR) with title to historical and archaeological resources and artifacts on State-owned lands. The statute provides the DHR with the authority to locate and arrange for the protection, preservation and restoration of historical and archaeological property of other governmental agencies.

Department of Agriculture and Consumer Services-Division of Forestry--Section 589.04, Florida Statutes, authorizes the Division of Forestry to assist governmental agencies in gathering information concerning forest management and in combating forest fires on government lands. Section 589.275, Florida Statutes, provides the Division with authority to assist State agencies "...to partially restore the original domain of Florida by planting native trees on state lands...".

Department of Transportation--Section 335.16, Florida Statutes, authorizes the Department of Transportation (DOT) to control access from State roads to public waters within highway rights-of-way. As provided by Chapter 14-41, FAC, it is the policy of the DOT to cooperate fully with other public agencies regarding maintenance of fishing and boating facilities at State Road system bridges.

Marine Fisheries Commission--The Marine Fisheries Commission (MFC) was established as a rulemaking authority pursuant to Section 370.027, Florida

Statutes. The seven members are appointed by the Governor and are delegated full rulemaking authority over issues relating to marine life (subject to approval by the Governor and Cabinet), with the exception of regulation of endangered species. Rulemaking may address the following areas: a) gear specifications, b) prohibited gear, c) bag limits, d) size limits, e) species that may not be sold, f) protected species, g) closed areas, h) quality control codes, i) season, and j) special considerations related to eggbearing females and oyster and clam relaying. The MFC is also instructed to make annual recommendations to the Governor and Cabinet regarding marine fisheries research priorities.

Health and Rehabilitative Services--Health and Rehabilitative Services (HRS) was created by Section 20.19, Florida Statutes. HRS is responsible for the development and enforcement programs of septic tank regulation and mosquito control. HRS also conducts water quality sampling within the Myakka River watershed.

Regional Agencies

In addition to SWFWMD, other regional agencies are also involved in various activities that may affect the Myakka River. Authority for regional agency involvement is based on State Statute.

Regional Planning Councils--Authority for activities of the Tampa Bay Regional Planning Council (TBRPC), the Central Florida Regional Planning Council (CFRPC), and SWFRPC as they relate to the river management plan is based on Sections 380.06 and 163.3164, Florida Statutes. The former provides for the regional planning councils to coordinate the review of DRI applications with affected governmental agencies. The latter mandates the councils to review and comment on the content of local comprehensive plans prior to their adoption by local governments. Subsection 258.501(6)(a), Florida Statutes, identifies the composition of the Myakka River Management Coordination Council, which includes TBRPC and SWFRPC.

Local Agencies

The North Port Water Control District exercises control over surface waters within a portion of the Myakka Wild and Scenic River segment. Other local

governments that regulate land development within the Myakka watershed include Manatee, Hardee, DeSoto and Charlotte Counties. These governments regulate land development activities that could potentially impact the river's resource values.

North Port Water Control District--The North Port Water Control District (NPWCD) is an independent public agency duly established in 1974 pursuant to the provisions of Chapter 298, Florida Statutes. This law provides for the creation of water control districts to provide drainage to lands owned by multiple owners. Water control districts are authorized to levy special taxes and to provide surface water management and control in areas not served by municipal or county agencies. The districts are also authorized to construct, maintain and operate canals, ditches, levees, dikes, pumping plants and other works and improvements. The activities of the drainage districts are subject to State regulation by DER and SWFWMD under authority of Section 403.061 and Chapter 373, Part IV, Florida Statutes. The NPWCD has approximately 35,000 acres of land within its regulatory boundaries, including portions of the Myakka River and watershed area. The NPWCD's objective is to construct, operate and maintain an integrated system of water control which will provide adequate drainage for developed areas, protect against flooding and conserve water for domestic supply and wildlife enhancement.

Nongovernmental Entities

This section identifies the numerous entities that have an interest in the Myakka River but are nongovernmental. They include, but are not limited to, environmental interest groups (e.g., Charlotte County Conservation Council, ECOSWF, Manasota 88, Audubon Society, Sierra Club), scientific organizations (e.g., Environmental Quality Laboratory, Mote Marine Laboratory), fishing and sports interest groups (e.g., Florida League of Anglers, Organized Fishermen of Florida, Florida Conservation Association), special interest groups (i.e., Manatee County Cattleman's Association, League of Women Voters), universities that may have research activities in the Myakka River (i.e., University of South Florida-New College, Florida State University, University of Florida), and other interest groups and individuals. The relationship of these entities to the Myakka Wild and Scenic River segment may include the coordination of activities, such as scientific research, environmental education, management

of rookeries or other natural areas, or numerous other possible activities. A river management process will depend on the continued support and help of these interest groups. The Myakka River Management Coordinating Council and DNR need to be active in communicating the river management process and activities to the various groups and consulting with them for their help in their areas of expertise.