MINUTES OF THE MEETING

ESTUARY HABITAT RESTORATION COUNCIL

AT HEADQUARTERS, U.S. ARMY CORPS OF ENGINEERS
441 G Street, N.W., WASHINGTON, DC
February 21, 2006

The meeting convened at 10:00 a.m., with the following members present:

- **Mr. George S. Dunlop,** Principal Deputy Assistant Secretary of the Army (Civil Works), Chair;
- **Mr. Merlyn Carlson,** Deputy Under Secretary for Natural Resources and the Environment, U.S. Department of Agriculture;
- **Mr. Timothy R.E. Keeney,** Deputy Assistant Secretary of Commerce for Oceans and Atmosphere, National Oceanic and Atmospheric Administration;
- **Dr. Mamie Parker,** representing H. Dale Hall, Director, U.S. Fish & Wildlife Service; and
- **Ms. Suzanne Schwartz,** representing Mr. Benjamin Grumbles, Assistant Administrator for the Office of Water, U.S. Environmental Protection Agency**.**

I. INTRODUCTORY COMMENTS:

Mr. George Dunlop, Department of the Army (Army), called the meeting to order and welcomed participants.

Mr. Timothy Keeney, National Oceanic and Atmospheric Administration (NOAA), said he cannot wait to get started and is enthusiastic about the recent work of the ERA Council and Workgroup.

Ms. Suzanne Schwartz, U.S. Environmental Protection Agency (EPA), conveyed the regrets of Ms. Diane Regas and Mr. Benjamin Grumbles who could not attend the Council meeting due to attendance at Supreme Court hearings.

II. APPROVAL OF PAST MEETING MINUTES:

Mr. Dunlop asked for consideration and approval of the previous minutes.

Mr. Carlson moved to approve the minutes.

Dr. Parker seconded the motion.

The minutes from the October 24, 2005, Estuary Habitat Restoration Council Meeting were approved.

III. RECOGNITION OF FORMER WORKGROUP MEMBER

Mr. Dunlop recognized Ms. Amy Zimmerling, NOAA, for her many contributions to restoration efforts during her time of service on the ERA Workgroup. He then presented a certificate of appreciation of behalf of the entire Council. Since Ms. Zimmerling could not be in attendance at the Council meeting, Mr. Keeney accepted on her behalf.

IV. UPDATE ON ST. MARTIN'S CREEK PROJECT

Mr. Dunlop asked the Workgroup to present to the Council the update on St. Martin's Creek and the question of whether or not it is appropriate to expand the scope of an original approved project.

Ms. Ellen Cummings, U.S. Army Corps of Engineers (USACE), explained that the St. Martin's Creek project sponsors are interested in additional work at the Lizard Hill section of the project, which was part of the original proposal. Lizard Hill was once a sand and gravel quarry, but is now abandoned. The sponsors are proposing to divert an unnamed stream into the former gravel area and create a wetland. Wetlands currently exist northeast of this area. There are two piles of debris at the site; the woody debris will likely be incorporated into the wetland creation while the concrete rubble may be able to be used for oyster reef restoration elsewhere. Including this additional work as part of the project will allow for coordinated timing and efficiencies. Ms. Cummings also mentioned that she had recently been on a site visit for this project and was impressed with the enthusiasm of the partners. The ERA funding request for this project would increase from $500,000 to $775,000. The Federal Highway Department is contributing an additional $500,000. The combined Federal share of the total project cost would be 48%. The Federal share of the project with ERA funds would be 34%. The revised St. Martin's Creek project will create 47 acres of wetland and improve water quality.

The issue before the Council is whether this change would set a precedent for future projects. The increased dollar amount for this project was a significant enough change that the Workgroup felt it necessary to bring it to the attention of the Council. But the Workgroup requests some small amount of project funding flexibility for consideration of project cost increases and overall improvements. If the Council does not approve the additional funding request for the St. Martin's project, The Council might recommend funding for two additional projects.

Mr. Dunlop pointed out that an increase in the amount of ERA funding would leverage a 400% increase in the number of acres restored. As a business proposition, this makes sense and is a good idea. Beneficial use of the debris piles is also an advantage. But the issues remain on whether this is too much of an increase in funding and if it sets a precedent. Mr. Dunlop then asked the other Council members if they would want to consider proposal changes on a case-by-case basis or if they want to give guidance to the Workgroup.

Mr. Keeney replied that he thought the revisions to the St. Martin's plan provided a good opportunity for restoration and an efficient use of funds because the project will improve stream habitat, create fish passage, and create partnerships. Regarding the precedent, Mr. Keeney said that he would like to see it narrowed in scope. He suggested that the next request for proposals should state that all potential project additions need to be mentioned in the proposal if they are to be considered for funding at any point in time.

Ms. Cummings felt that this approach would work with more mature projects that have reached the design phase, but would disadvantage projects not quite fully developed.

Dr. Parker stated that we should approve the project because we want to show we are restoring and creating more wetland acres, which will increase support for the program. Dr. Parker also mentioned that she is concerned with approving additional funding on a case-by-case basis because we may not have additional funds every time a project requests them.

Ms. Schwartz stated that she thought the expanded project proposal was worthwhile. Regarding the precedent issue, she suggested that the Council make clear that it is unusual for cost-share amounts to be awarded in excess of initial proposal requests. She also noted that

sometimes, during field work, opportunities can arise to modify the project in a way that would provide more environmental benefits and we should have the flexibility to entertain such modifications.

Mr. Dunlop recommended deferring the decision on whether to fund St. Martin's Creek until after the Council heard the later agenda items. Mr. Dunlop then asked Mr. Keeney what he thought appropriate precedent parameters would be.

Mr. Keeney responded that he would like to hear from the Workgroup what might work best.

Dr. Perry Gayaldo, NOAA, stated that in order to address the question of precedent we should deal with it in the next request for proposals (RFP). Dr. Gayaldo then suggested that the RFP request new proposals as well as additions to existing proposals and have these due at the same time.

Ms. Cummings stated that the Workgroup agreed that project sponsors would not submit proposals for repeat funding. It would possibly delay a project considerably to wait for funding. Ms. Cummings then stated that a project would not likely be approved for additional funds except in unusual cases.

Mr. Dunlop went through the three options available for the Council to consider: 1) follow the regular order and submit projects one time with no additional funds available; 2) on a case-by-case basis, the Council would consider modifications to already approved projects if funds are available; and 3) authorize the Workgroup to approve additional funds with a marginal increase.

Ms. Cynthia Garman-Squier, Department of Army, said that it would be beneficial to have the flexibility to negotiate the specifics of a project since this is not a grant program.

Dr. Parker asked if $5,000 to $25,000 would be appropriate for the Workgroup to approve in additional funds.

Ms. Cummings suggested that a percentage may be more appropriate, perhaps 10%.

Mr. Dunlop asked someone to propose a fixed monetary or percentage amount.

Dr. Parker proposed 10% and suggested that we watch the trends and if this needs to be increased, the Workgroup can come back to Council and ask.

Mr. Dunlop stated that the Council approves 10% and returned to the deferred decision on St. Martin's Creek.

Ms. Garman-Squier said that when the Council last met in October, ERA did not yet have a FY06 appropriation. The Council agreed to fund projects one through five and sent letters to all 16 sponsors telling them of their status. ERA currently has approximately $1.5 million available. In addition to the St. Martin's decision, the Council needs to decide if they want to recommend funding for project 6. Colorado Lagoon, 7. Saxis Island, or 8. Emory Creek. In October the issue of cost per acre came up as review criteria for proposals. There was nothing in the law or legislative history that dealt specifically with cost per acre, but cost effectiveness is in the law and was one of the factors considered when the proposals were reviewed Some of the additional factors considered included synergy with existing or proposed projects, significance of outputs, and public support. The President requested $5 million for the ERA in the FY 07 budget. The same amount was requested in FY 06 and Congress appropriated $1 million. With regards to the money left over from this year, the Council can reserve it and publish a new solicitation or follow another option.

Mr. Dunlop ran through the options: A) fund one project; B) fund one project and St. Martin's addition; C) fund some combination of two of the three projects; or D) carry all of the money over. Regardless of the option chosen, there will be carryover.

Ms. Cummings updated the Council on Colorado Lagoon, which has four storm water pipes going into it. The State of California has provided full funding to divert low flow and install trash separation devices on the pipes, reducing future adverse effects on the lagoon.

Mr. Dunlop stated that the project sponsor, the City of Long Beach, is not going away and that the project would provide 28 acres, the sponsors are contributing cash, and it has community support. With the storm water outfalls remediated, the chemicals will also be ameliorated. The Saxis Island project provides long-term sponsors and a lot of acreage, while Emory Creek has a small amount of acreage, but a large number of partners.

Mr. Keeney stated that geographic diversity has not been mentioned and that environmental equity might also be an issue that could be seen as a beneficial aspect of the Colorado Lagoon project since many of the people living nearby are relatively poor minority populations.

Dr. Parker recommended that alternative D (carry over of all of the money) be eliminated and that she sees great reasons to approve Colorado Lagoon.

Mr. Keeney mentioned that there has been a certain amount of frustration with getting projects going on the ground and that he would also like to see more projects funded.

Mr. Dunlop declared that Colorado Lagoon and St. Martin's were approved by the Council for funding with a $416,000 carryover. The Council declined to approve Saxis and Emory due to a lack of funding.

Mr. Percy Magee, USDA**,** asked whether or not those two projects would need to reapply.

Ms. Garman-Squier answered that they would not receive automatic reconsideration, and would need to reapply, if interested.

Ms. Cummings brought up the possibility of partially funding projects, which was done in the first ERA solicitation with mixed results.

Mr. Keeney felt that we may get stronger proposals in the next round.

Ms. Schwartz suggested that we proceed quickly with a new RFP and not wait for a new allocation to move forward.

Ms. Cummings mentioned that a new solicitation will be issued soon and that the Workgroup did not get a clear precedent decision yet.

Mr. Dunlop said that regarding precedent, the Council will consider expanding funding only in extraordinary conditions.

Ms. Cummings presented recommendations the Workgroup had for the Council, which included a proposal to raise the minimum project ERA funding amount from $25,000 to $100,000, and a proposal to change the definition of the divide between large and small projects from a Federal cost share of $250,000 to $1 million but to keep the size component of the definition at 50 acres. Ms. Cummings then mentioned that the Council should consider a range of large and small projects when deciding which to recommend to the Secretary of the Army.

Mr. Keeney moved these as a motion.

Ms. Schwartz seconded the motion.

Dr. Parker questioned who we might be eliminating as a result of the proposed changes.

Mr. Dunlop and **Mr. Keeney** said they thought we would be expanding the universe of projects.

Mr. Dunlop took a vote and the motion carried unanimously. Mr. Dunlop then invited Dr. Gayaldo up to give his presentation on the Habitat Trends Report.

Dr. Gayaldo said that the charge of the contractor was to determine a methodology and to evaluate coastal habitat nationwide in the lower 48 states. The methodology employed was to identify aerial transects across the U.S. and look for habitat types representative of the regions.

Seven of 18 transects were used. This was not a robust study because multiple transects were not used in each region. Historical imagery was used, as were recent aerials from 2002-04. The contractor determined how habitat types changed in the transects and talked with regional experts about how well the chosen transects represented the region. In the Mid-Atlantic, 42% of the coastal wetlands have been lost, which equates to a little over 1 million acres. Along the Gulf Coast, about 6 million acres, or 38%, have been lost. The report shows a national perspective.

Mr. Dunlop asked if this information is available to the public.

Dr. Gayaldo responded that it is and the report will be posted on the NOAA ERA website. The key finding is that the rate of loss has actually increased in the past decade.

Mr. Dunlop mentioned that this work was funded by the appropriations that NOAA receives for ERA.

Dr. Gayaldo said that NOAA has three charges under the Act: 1) the National Trends Report; 2) the National Estuary Restoration Inventory; and 3) the monitoring protocols.

Mr. Keeney thanked Dr. Gayaldo.

Mr. Dunlop asked if there were public comments.

Ms. Mindy Destro, Restore America's Estuaries, thanked the Council for all of their work.

Mr. Dunlop asked about upcoming RAE events.

Ms. Destro replied that they are reaching their 500th project and their Third National Conference will be held in December in New Orleans.

Mr. Dunlop said that the Council might schedule a meeting at the December conference. There being no further public comment, the meeting was adjourned at 11:25 p.m.

Estuary Restoration Act
Estuary Habitat Restoration Council
Ranked Proposal Recommendations
February 21, 2006

Project	Area/Habitat/Key Action
Revised St. Martin's River Restoration, MD	Original proposal 12acres, 9 miles of stream access – dam removal and planting. Add 35 acres emergent and forested wetlands – modification of sand and gravel quarry
City of Long Beach's Colorado Lagoon, CA	17 acres tidal lagoon intertidal to upland habitat – remove sediment and non-native plants, re-contour and replant