

**Statement of Chairman Colley Billie, Miccosukee Tribe of Indians of Florida**  
**Public Witness Hearing on Native American Issues**  
**House Interior Appropriations Subcommittee**  
**April 25, 2013**

My name is Colley Billie, and I am the Chairman of the Miccosukee Tribe of Indians of Florida (Tribe). Thank you for the opportunity to testify on a critical issue to the Miccosukee people – our home, the Everglades. My testimony focuses on the Tribe's priorities for Everglades restoration and the protection of our traditional ways of life. The Tribe strongly supports a comprehensive approach to restoration that focuses on improving water quality throughout the Everglades before it is too late and before the Everglades are forever damaged. However, the Tribe strongly opposes the National Park Service's (NPS) request of \$30 million for the purpose of constructing massive skyway bridging for an additional 2.6-miles of the Tamiami Trail (Trail). The bridging will not allow NPS to achieve its stated goals of helping to restore the Everglades and deliver water to Everglades National Park (Park). There are effective alternatives to deliver water to the Park at a fraction of the cost.

For hundreds of years, the Everglades have been our home. The Everglades was our refuge as we evaded removal to the west. For generations, the land and the waters of the Everglades sustained our people. We have always sought to honor and protect our environment through responsible stewardship of the land. However, after years of environmental degradation caused by others, our way of life has been deeply affected. Because we are the people most affected by the health of the Everglades, the Tribe has fully supported restoration efforts of the Everglades. The Tribe was deeply engaged in the development of the Comprehensive Everglades Restoration Plan (CERP) and supported its passage by Congress as part of the Water Resources Development Act (WRDA) of 2000. We have always advocated for true restoration of the Everglades through a holistic approach focused on improving the quality of the water first.

For the past decade, this Committee has shown a commitment to Everglades restoration with over \$600 million appropriated for Department of Interior (DOI) Everglades restoration efforts since FY05. We support the Committee's overall goals of restoring the Everglades. More specifically, the Tribe supports provisions in the committee reports of the FY04 and FY08 House Interior Appropriations bills that prioritized the need to improve the water quality in the Everglades, including the need to adequately develop Stormwater Treatment Areas (STA) to treat contaminated water from the Everglades agricultural areas before allowing it to flow onto tribal lands and other parts of the Everglades.

However, despite the large amount of funding, restoration efforts have not been comprehensive and have lacked coordination or follow through to completion. For example, the Western Everglades, including the L-28 canal system that dead ends on the Miccosukee Federal Reservation and delivers water that exceeds EPA-approved standards by more than 10 times, have not been addressed in any meaningful way. Instead, projects that do not address water quality and are not even part of the CERP have moved forward in a seemingly arbitrary way.

One such project has been the massive skyway bridging of the Trail. Over the last decade, there have been multiple plans and attempts to build bridges on the Trail. The Tribe has witnessed a

constantly changing array of alternatives that has culminated with Appropriations bills being used to authorize bridging projects and evade proper regulatory and legislative procedure. After years of differing proposals, in August of 2008, the Limited Reevaluation Report (LRR) recommended a one-mile bridge on the eastern portion of the Trail. In September 2008, Congress passed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act (P.L. 110-329) providing the authority and funding for the one-mile bridge. In November 2008, at the request of the Tribe, a federal judge issued an injunction to prevent further bridging because NEPA had not been properly followed.

However, in March 2009, Congress passed the FY09 Omnibus Appropriations Act that included a provision directing the Army Corps of Engineers to begin construction of the one-mile bridge “notwithstanding any other provision of law” so that NEPA no longer applied to the bridging project and the injunction was lifted. In addition, NPS was directed to consider alternatives for further bridging; and, in December 2010, NPS issued a Final Environmental Impact Statement (FEIS) recommending an additional 5.5 miles of skyway bridging and elevated roads for the remainder of the 10.7 miles of the Trail at an estimated cost of \$310 million. The FY12 Omnibus Appropriations Act authorized NPS to construct the additional 5.5 miles of skyway bridging but did not provide funding for construction.

Now, NPS, in its FY14 budget proposal, has requested \$30 million for a new 2.6-mile bridge “as a one time contribution...to leverage funds from other sources to cover the remaining costs...” NPS estimates the cost of this skyway bridge to be \$110 million.

### **Skyway Bridging of the Tamiami Trail is Wasteful and Ineffective**

The scope of the bridging project is large, far exceeding the footprint of the current Trail. For some, this bridge project has become a symbol of Everglades Restoration. To us, it would be an empty symbol. Bridging advocates claim that the bridge will allow water to flow “freely” from Lake Okeechobee in the north to Florida Bay hundreds of miles to the south, through tribal lands, to restore the historic River of Grass. However, the waters discharged from Lake Okeechobee are diverted through a complex canal and levee system and are laden with pollution. Before the goal of redirecting water from Lake Okeechobee to flow south through tribal lands to the Park can be accomplished, water quality treatment and storage solutions must be implemented.

The Park has stated that it needs to build the one-mile bridge and the additional 5.5 miles of bridging to increase the volume of water entering the Park, restore the natural sheet flow, and increase ecological connectivity. However, the Trail already has a set of culverts underneath it that would convey a significant amount of water into the Park if they were simply cleared of vegetation, sediment, and garbage and maintained as intended. Adding swales and additional culverts where necessary would considerably increase the flow of water cost effectively. In addition, the swales would help produce the natural sheet flow by widely distributing the water.

In fact, a 2010 study by the University of Miami commissioned by the Park to evaluate the effectiveness of the culvert and swale approach concluded that this approach would be highly effective at moving water under the Trail at a fraction of the cost. The 2008 LRR estimated that the installation of spreader swales would cost \$17 million. As a result, the Park began moving toward implementing a pilot culvert and swale project but then apparently delayed this project in

favor of bridging. The reality is that culverts are used widely throughout the Everglades on many roads, including Flamingo Road (the main road) in the Park and I-75 in the north, to effectively convey water. If culverts work in these areas, why would they not work on the Trail?

Despite producing similar volumes and sheet flow, the culvert and swale option was eliminated because the Park argued that only bridging could provide “ecological connectivity.” Essentially, ecological connectivity was calculated based on the length of the opening connecting the Park with the water north of the Trail. In reality, the bridging is only connecting the Park with the L-29 canal. North of the L-29 canal is a levee separating the L-29 canal from Water Conservation Area (WCA) 3A and 3B. To date, there is no plan to fully remove this levee and truly connect the WCAs with the Park. In fact, the current plan to increase water flow into the Park entails increasing the level of the L-29 canal to spill into the Park under the bridge, not to fully connect to the WCAs. Connecting the Park to a canal is not ecological connectivity.

It is not at all clear that the waters flowing under the 1-mile bridge into the Park will not significantly seep back into the L-31N canal on the eastern side of the Park, creating flood concerns. Seepage into this canal will lead to the extra water having to be pumped back into the L-29 canal and ultimately into the Park again in a circular flow. This is not restoration. The effectiveness of the 1-mile bridge should be determined before building another costly bridge.

Given the current constraints on the federal budget, NPS’s plan of a one-time contribution seems highly uncertain at best. Two weeks ago, NPS Director Jon Jarvis testified here that there was no agreement with the state of Florida or any other source to cover the remaining \$80 million that this 2.6-mile increment of bridging will cost. The federal government and the state of Florida have historically disputed Everglades restoration costs, and we understand that officials from the state of Florida question the cost-effectiveness of skyway bridging the Trail. In their comments to the FEIS in 2010, the South Florida Water Management District expressed concerns about the effectiveness of the bridge, due to water quality issues, and questioned why the culvert and swale approach was not considered. What will happen if NPS is not able to secure the additional \$80 million needed to complete this project? Will NPS ask for another one-time contribution? Also, what about the remaining 4 bridges spanning another 2.9 miles authorized under the FY12 Omnibus Appropriations Act that will cost more than \$110 million? Will these also require one-time contributions from NPS to leverage still more funding from the state of Florida? The 1-mile bridge exceeded the original estimates due to significant cost overruns, and we believe this 2.6-mile increment will far exceed the \$110 million estimate, too.

Director Jarvis also acknowledged a backlog of over \$11B in deferred maintenance throughout the National Park system. Yet, despite this enormous backlog, NPS proposes to spend \$30 million of its proposed FY14 \$160 million construction budget, not on addressing this backlog, but rather on a new construction project dependent on securing another \$80 million in funding from other sources to complete. Given the effects of sequestration and the continued limits on the budget, this project does not make sense, especially considering that it will not achieve its intended purpose.

Just two weeks ago, former Secretary Salazar testified before this Committee that this is “a budget of tough choices” and that DOI does not have the resources to fund the construction of

new schools in Indian country. Yet, the Department has \$30 million to partially fund a bridge that will be ineffective and wasteful? Instead of spending millions more on bridging, the Miccosukee Tribe strongly urges the immediate implementation of a culvert and swale approach that would clear the existing culverts and add additional culverts and swales as necessary so that water can flow more effectively into the Park.

### **True Restoration of the Everglades Begins With Improving Water Quality**

The Tribe believes that continued bridging diverts limited federal resources from projects that clean the water – the key to actually restoring the Everglades. If NPS succeeds in completing the bridging, hundreds of millions of dollars will have been spent on trying to move dirty water from one place to another. By law and regulation, the Park cannot accept water that exceeds the EPA agreed to standard of 10 ppb phosphorous. Right now, water quality in many areas of the Everglades on the Miccosukee Federal Reservation and Leased Land Area do not meet this standard and cannot be moved into the Park. It does not make sense to spend millions of dollars on bridging before ensuring that the water is clean.

Recently, as a result of litigation initiated by the Tribe, EPA and the state of Florida entered into a “Framework Agreement” (Agreement) to address water quality issues in the Everglades. This Agreement calls for a number of projects, including the expansion of STAs and the creation of Flow Equalization Basins (FEBs). While the Tribe is encouraged by this Agreement, we have several concerns. Most importantly, this Agreement does nothing to address poor water quality in the L-28 canal system in the Western Everglades. The L-28 Interceptor canal ends on the Miccosukee Federal Reservation as a free flowing discharge with water that can exceed 100 ppb of phosphorous, over 10 times the accepted standard. The combined impacts and phosphorus load from these discharges have caused devastating impacts on tribal lands, WCA 3A, and the Everglades ecosystem. Recent data from the 2011 South Florida Environmental Report shows that the combined discharge from the L-28 canal system comprises nearly 30% of the total phosphorus load discharged into WCA 3A. For far too long, Miccosukee lands have been treated as a *de facto* STA (dumping ground for contaminated water).

Addressing contamination in the L-28 canal system must be a top priority for true restoration of the Everglades and to ensure that our homelands, culture, and traditions are protected. The Tribe believes that all options for resolving this must be considered; and, because the L-28 canal system directly impacts the Miccosukee Federal Reservation, any final resolution must be consistent with the Tribe’s policies and way of life. We ask that the Committee urge DOI to address the poor water quality of the L-28 canal system.

### **Conclusion**

As the people who live in the Everglades, the Miccosukee Tribe is committed to its full restoration. We are deeply concerned that precious resources that should be spent on cleaning the water now before it is too late are being spent on costly and ineffective projects that ultimately will not help achieve restoration of the Everglades. We urge that no more funding be appropriated to bridging the Trail and that the Committee consider implementing the cost-effective culvert and swale approach to provide the water that the Park says it needs. In addition, we ask that the Committee support efforts to address the poor water quality of the Western Everglades and the L-28 canal system.