RECORD OF DECISION
NAVIGATION STUDY FOR MIAMI HARBOR
MIAMI-DADE COUNTY, FLORIDA

The February 2004 (Revised October 2004) Final General Reevaluation Report (GRR) and Final Environmental Impact Statement (FEIS) on the Navigation Study for Miami Harbor, Miami-Dade County, Florida, addresses the need for channel modifications. The report was prepared in response to a resolution from the Committee on Transportation and Infrastructure, United States House of Representatives, adopted October 29, 1997. Based on the review of this project and the views of interested agencies and the concerned public, I find the plan recommended by the District Engineer, Jacksonville District, U.S. Army Corps of Engineers to be technically feasible, in accordance with environmental statutes and in the public interest.

The GRR and FEIS evaluated various structural and non-structural components of alternatives for correcting problems and providing deeper and wider channels for safer transit of larger commercial vessels with more cargo tonnage onboard. These components of alternatives were evaluated for costs, benefits, and environmental impacts associated with implementation. The project is located in Miami-Dade County, on an island-based facility consisting of 518 upland acres in the northern portion of Biscayne Bay in southern Florida. The plan of improvement recommended by the District Engineer is the Locally Preferred Plan (LPP) and consists of the following components:

- Deepen to a project depth of 52 feet for the LPP: Widen the seaward portion of the entrance channel (Cut-1) from 500 to 800 feet and deepen Cut-1 and Cut-2.

- Deepen to a project depth of 50 feet for the LPP: (1) Add a turn widener at the southern intersection of Cut-3 with Fisherman's Channel; (2) Deepen Cut-3; (3) Increase the Fisher Island Turning Basin from 1200 to 1500 feet. Truncate the northeast section of the turning basin to minimize seagrass impacts; (4) Adjacent to Cut-5 (Lummus Island Cut or Fisherman's Channel) expand the Sponsor's existing 100-foot berthing area (Gantry Crane Berths 99-140) by 60 feet to provide a total berthing area of 160 feet and widen the southern edge of Cut-5 (Lummus Island Cut or Fisherman's Channel) about 40 feet to provide a 440-foot wide channel for a 100-foot increase in total width; (5) Deepen Cut-5 (Lummus Island Cut or Fisherman's Channel); (6) Reduce the Lummus Island (Middle) Turning Basin to a 1500-foot diameter from the currently authorized 1600-foot diameter, and deepen.

- Realign the western end of the existing 36-foot main channel (Cut-4) about 250 feet to the south, no dredging required;

Encl 3

In addition to a "no action" alternative, structural and non-structural components of the alternatives were evaluated to determine if they provided the required improvements. These alternatives are fully described in the Final Feasibility Report and FEIS and are hereby incorporated by reference. Under the no-action alternative, there would be no Federal participation in channel and safety improvements to the Port of Miami. The "no action" alternative does not satisfy the planning objectives. Therefore, all NED benefits that would be provided by the recommended plan would be foregone. Some of the structural and non-structural components of alternatives do not fully address the safety and vessel transit issues identified in the GRR. Therefore, these components were determined not to offer reasonable solutions for the issues identified for the Port of Miami. A non-structural alternative involving realignment of the western end of the existing 36-foot main channel (Cut-4) about 250 feet to the south did not require dredging and, as mentioned above, was kept as part of the recommended plan.

The Corps of Engineers considered applicable laws, executive orders, regulations, and local government plans in evaluating the alternatives. All practicable means to avoid or minimize adverse environmental effects have been incorporated into the recommended plan. The recommended plan contains recommendations for mitigation that will avoid, minimize and compensate for adverse environmental impacts.

The Corps has considered the recommendations of the USFWS, as provided in their draft and final Coordination Act Reports, as well as the views of other Federal, state and local agencies, various interest groups, and members of the public as expressed during the scooping and public coordination processes. The Corps will continue to coordinate with the appropriate Federal and state environmental resource agencies and environmental advocacy groups during the pre-construction engineering and design phases of the project to address their concerns. The State of Florida Department of Environmental Protection – State Clearing House concurred with the Jacksonville District's determination that the recommended project is consistent with the Florida Coastal Management Program on November 30, 2004.

Consultation under Section 7 of the Endangered Species Act of 1973 was completed. In July 2002 the Corps submitted a Biological Assessment to the U.S. Fish and Wildlife Service (USFWS) finding that the proposed action was likely to affect, but not likely to adversely affect the endangered Florida manatee. In the June 17, 2003, Final Coordination Act Report (CAR), the USFWS concurred with the Corp's determination. On September 5, 2002 the Corps submitted a Biological Assessment to the National Marine Fisheries Service requesting a concurrence with the Corps' determination that the recommended plan "may affect, but is not likely to adversely affect" listed species under NMFS' purview. In a February 26, 2003, NMFS issued a biological opinion for the Miami Harbor GRR project, concluding ESA consultation.

During a November 2004 consensus-building meeting held with the State of Florida, Department of Environmental Protection and Florida Fish and Wildlife Commission, the Corps revised the final impact and mitigation calculations for reef impacts. This revision

was based on an oversight in the preparation of Volume 1, Appendix G, where the revised slope of 1V:0.5H was not applied when calculating hardground impacts in the Entrance Channel. Corrections to the hardground impacts based on 1V:0.5H slope are:

High relief reef – 3.1 acres
Low relief reef – 1.4 acres

New mitigation values for these impacts are:

High relief reef – 6.2 acres (based on 2:1 ratio)
Low relief reef – 1.82 acres (based on 1.3:1 ratio)

Impacts to seagrass resources and required mitigation remain as stated in the FEIS.

In addition to comments previously received on the DEIS and addressed in the FEIS, there were four new substantive comments on the FEIS. These comments had to do with the presence of Right whales, blasting, public involvement, and evaluation of essential fish habitat (EFH). The status of these comments are as follows:

Northern Right Whales near Port of Miami
This was the first right whale documented near Miami since 1989. The whale was monitored in accordance with the protocol developed by the Southeast Right Whale Recovery Plan Implementation Team (SEIT) to prevent right whale/vessel interactions. The Corps is an active participant in the SEIT and is informed of right whale sightings throughout the season.

With regard to long-term effects of ships entering/exiting the port of Miami, NOAA Fisheries, in a recent review of proposed strike reduction plans, excluded the ports of Port Everglades, Port of Miami, and Port of Palm Beach due to the scarcity of reports of right whales that far south.

Blasting
With respect to blasting, USACE has completed coordination with USFWS under the ESA and MMPA for potential effects to manatees, and USFWS concurred with the Corps' finding of "May affect, not likely to adversely affect". The Save the Manatee Club requested that USACE re-initiate consultation with FWS under Section 7 of the ESA. The Corps contacted the FWS upon receipt of the letter in July 2003, and the Service determined that no re-initiation trigger had been met, thus no re-initiation was required.

Public Involvement
The Tropical Audubon Society raised an issue that a group who was listed in the Scoping section of the report had not been coordinated with. A review of records indicates that the organization had been sent the scoping letter in 2000, however they did not provide comments. A review of the organization's website (Biscayne Bay Regional Restoration Coordination Team) found that the following agencies that were sent the draft and Final EISs are team members: Biscayne Bay National Park; NOAA Fisheries; Environmental

Protection Agency; USFWS; Florida Department of Environmental Protection (FLDEP); Florida Fish and Wildlife Conservation Commission; FLDEP – Biscayne Bay Aquatic Preserve; South Florida Water Management District; Miami Dade County Planning and Zoning; Miami Dade County DERM; South Florida Regional Planning Council and Tropical Audubon Society. The Corps has determined that this organization's membership has been intimately involved in coordination with this project.

EFH Not Evaluated in EFH Assessment

NOAA-Fisheries states that the Corps did not evaluate impacts to EFH habitats (sand and sponge/marcoalgae) and thus did not evaluate potential impacts to pink shrimp, white shrimp, spiny lobster and lane snapper. This is an error. The EFH Assessment (Appendix F of the FEIS) that was prepared for the DEIS, and incorporated by reference to both the DEIS and FEIS, evaluated impacts to these habitat types and these species specifically.

Technical and economic criteria used in the formulation of alternative plans were those specified in the Water Resources Council's *Principles and Guidelines.* All applicable laws, executive orders, regulations, and local plans were considered in evaluating the alternatives. The recommended plan is not the environmentally preferable plan, but is the one that delivers substantial benefits in a cost effective manner while meeting the overall Federal and State objectives and incorporates features to avoid, minimize, or mitigate adverse environmental and social effects. Based on review of these evaluations, I find that the benefits gained by implementation of the recommended plan far outweigh any adverse impacts and the overall public interest will best be served. This Record of Decision completes the National Environmental Policy Act process.

22 May 2006
Date

John Paul Woodley, Jr.
John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)