

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA IN AND FOR THE COUNTY OF MIAMI-DADE

FINAL REPORT
OF THE
MIAMI-DADE COUNTY GRAND JURY

**INQUIRY REGARDING
SOUTH FLORIDA'S FUTURE WATER SUPPLY CRISIS
AND THE MIAMI RIVER**


SPRING TERM A.D. 1998

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FILED
November 24, 1998

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INDEX

INQUIRY REGARDING SOUTH FLORIDA’S FUTURE WATER SUPPLY CRISIS AND THE MIAMI RIVER.....	pages 1 - 16
I. INTRODUCTION.....	1
II. LAND VERSUS WATER: THE SOURCE OF OUR FUTURE DILEMMA	2
III. SOUTH FLORIDA’S WATER SUPPLY.....	3
IV. A HEALTHY SOUTH FLORIDA NEEDS A HEALTHY EVERGLADES....	5
V. THE EVERGLADES “RE STUDY”.....	6
VI. THE MIAMI RIVER.....	9
A. Governance of the Miami River.....	11
B. Dredging the Miami River.....	14
VII. CONCLUSION.....	15
INDICTMENTS.....	17 - 21
ACKNOWLEDGEMENTS.....	22

INQUIRY REGARDING SOUTH FLORIDA'S FUTURE WATER SUPPLY CRISIS AND THE MIAMI RIVER

I. INTRODUCTION

Life in South Florida is inextricably tied to water. One look across Biscayne Bay reveals this simple truth. Water vistas form the backbone of much of our tourist industry and the core of our South Florida lifestyle. In fact, we are surrounded by so much water that we take it for granted in many ways. Rarely do incidents occur that call into question its availability. And yet, based upon our investigation of that very issue, it is abundantly clear that we should. Inadvertently, years of governmental actions and policies have slowly depleted our future water supply. Unknowingly, decisions to change our landscape have placed the future of our community's drinking water at risk. We have discovered in our foreseeable future the potential for an impending water upheaval that could substantially alter the availability of our freshwater and escalate the price we pay for it. If we do not act carefully now, if we do not plan properly, we fear that our children will soon be debating the cost and availability of our water and not its beauty. It is ironic that the growth of our community, indeed its very economic health, could be limited by what is seemingly its most limitless feature.

Today, citizens in other areas of Florida engage in furious debates, some would say "wars", over the availability of water for their common daily needs. Lawsuits and permits are the weapons used in these "wars" and rivers, streams and aquifers are the battlegrounds. In the Tampa Bay area, desalinization technology, once envisioned only for the sandy deserts of the Sahara, is today being studied and considered to help supply their citizens' current water needs. The same technology is being experimented with in the City of Hollywood in Broward County. For too long we have erroneously assumed that life here in South Florida is safe from water shortages. Nothing could be further from the truth.

Accordingly, we have sought to use our term in an effort to examine this important issue and highlight for our community the perils we all face. As members of the Spring Term 1998 Miami-Dade County Grand Jury we believe that, within the next few months, we have a unique opportunity to help ensure our future water supply needs while restoring one of our most

important natural resources. This report is intended to be a loud call for public awareness and political action. The very future of our community may hang in the balance.

II. LAND VERSUS WATER: THE SOURCE OF OUR FUTURE DILEMMA

Today's problems are rooted in decisions made in our immediate past. In the early 1900's, South Florida was a very different, and to us now, a virtually unrecognizable place. The land where many of our homes now stand was swampland, mostly covered with water and teeming with wildlife. The Miami River was a pure, clean waterway that meandered through the heart of our city. At its westward most end (near where 36th Street is now!), there were rapids and a small waterfall. Boaters on Biscayne Bay could easily see lobsters on the sandy bottom and catching them was as simple as spotting them from the boat and diving down to get them. On the westward side of Miami, the distinctive tree islands of our Everglades could be seen on the land that would become the concrete runways and buildings of the Miami International Airport. To people everywhere, this paradise was a magnet and the population of South Florida began to grow.

The concerns of rural South Floridians focused not upon ecological preservation, but rather upon ways to create land for new settlers. To do so, over the years between 1905 and 1940, Florida engaged in a Herculean effort to drain its wetlands (or swamps, as they were then called). In 1947 extensive flooding, due to the combination of wet weather and back-to-back hurricanes, caused a large-scale loss of life and property. This emergency accelerated the formation of the Central and Southern Florida Project by the United States Army Corps of Engineers in 1950 and the creation of a vast system of man-made canals, dams, water pumps and water storage areas designed with the sole purpose of draining rainwater out to sea. Completed in the mid-70's, this canal system changed the face of South Florida forever. Ominously, it changed other things too. By altering the natural water flow over our entire region, it endangered both the Everglades ecology and the cheap, clean and readily available supply of water for all of South Florida's future needs. In our not too distant future, the decisions of how and where we wish to live may be limited by this lack of adequate water. The water wars of our distant Florida neighbors could become our plight as well. Yet, too few citizens even today recognize the extent of the difficulties we now face. It is a future crisis we must awaken to today.

III. SOUTH FLORIDA'S WATER SUPPLY

Surrounded by as much water as we see every day, it is hard for us to understand the fragility of our water supply. For every ounce we drink and use, we are totally dependent upon the Biscayne Aquifer, a huge underground area of porous rock through which water seeps and is filtered and cleaned. We access this underground reservoir by drilling wells into the aquifer and extracting its water. These wells, technically known as "wellfields", mark the beginning of our water delivery system.

The sole source of the water in the Biscayne Aquifer is rainfall but curiously not just local rainfall. Much of the rainfall that reaches the Biscayne Aquifer actually falls in the area from Lake Okeechobee south through the entire Everglades. The availability of rainfall to the Biscayne Aquifer is unpredictable. Rainfall amounts vary between wet and dry seasons throughout the year. While we generally speak in terms of receiving an average of 50 - 60 inches of rain each year, the actual amount we receive is highly variable. For example, as recently as 1989, drought conditions reduced our average rainfall by 25 percent. Six years later, excessive amounts of rain resulted in an increase of almost the same amount. This wild swing of almost 50 percent highlights the unpredictability of rainwater as one of our water supply's weakest links.

The strength and frequency of our rainy season storms actually pose the most serious barrier to the awareness we need to truly confront our water crises. People just can not believe we could potentially lack enough water when it rains so heavily in Florida. The reason is, unfortunately, not very obvious. We all know the extremely high humidity we feel when a major thunderstorm passes and the sun comes out. We all know enough basic science to understand that this high humidity is caused by the evaporation of the just fallen rain. We do not realize that through this "evapotranspiration", *two-thirds* of our rainwater quickly evaporates into the air to restart our daily wet season thunderstorm cycle. It never seeps into the ground and never reaches the Biscayne Aquifer. Two-thirds of our rainwater is thus lost to our water supply. We also don't realize that our flood control system drains most of the remaining one-third of our rainwater out to sea through canals. Thus, our perception may be that we get plenty of rainwater. In reality, less than 15 percent of this rainwater ever actually reaches the Biscayne Aquifer to become our water supply. In fact, the amount of freshwater we waste through our drainage

system is indicative of our lack of awareness. Each and every year, it is estimated that as much as 1 *trillion* gallons is flushed out to sea. We are presently throwing away into the Atlantic Ocean enough water to supply the annual water needs of 11 million people.

“The amount of rain we receive has not changed, and most rain still falls west of the coastal ridge. But drainage has dramatically changed what happens to that water. Instead of being held in the Everglades and recharging the Biscayne Aquifer, much of it is drained through canals to the oceans. That lost water, with our increasing consumption of ground water, means that the coastal wellfields are now threatened by saltwater intrusion. To meet urban and agricultural needs, we have had to move wellfields inland. The east coast protective levee, built to keep water in the Everglades from overwhelming the coastal drainage system, has seen suburban development join farming as its neighbor. Water once stored in the Everglades is now seeping eastward, where it is drawn into the water table, now lowered to accommodate this westward growth.”¹

Saltwater contamination is the final component highlighting the fragility of our water supply. The physics of our underground water flow maintains a continual southward pressure through the Biscayne Aquifer. This presses the encroaching ocean away from our underground freshwater supply. So long as there is sufficient pressure to keep our freshwater moving toward the ocean, the chance of saltwater intrusion is minimized. However, if the aquifer water levels drop, as might occur during a time of drought, the pressure would be lessened and the flow would be reversed, allowing saltwater to enter our wellfields with disastrous results.

Until we examined this issue, many of us did not remember that in 1989 this very danger forced us to practice voluntary water conservation here in South Florida. In that year, half the rainfall of an “average” dry season had fallen. Ground water levels in South Florida were as much as 30 inches below normal. The danger of saltwater intrusion became an immediate threat. Many of us can remember using our address numbers to determine if we could wash our cars or water our lawns on an odd or even numbered day. It is important that we also remember one additional fact. If ten years ago, when our population was 18 percent *less* than it is today, a simple period of low rainfall resulted in South Florida needing to conserve water, what will happen ten years from today when our population and our water needs are projected to be 43 percent *larger*? The warning signs for South Florida are clear. We can no longer think of our water supply as a totally

¹ The Nature Conservancy, “The Challenge of Water Management in South Florida,” (1998), p. 3.

inexhaustible resource. According to the South Florida Water Management District, between 1990 and the year 2010 the demand for public water supply in South Florida is expected to increase by 69 percent. They project water needs for industrial or commercial users to increase by 62 percent and agricultural use by 22 percent. If we simply do nothing, the growth needed for the continual economic health of our community will soon outstrip our available water supply. The specter of a building moratorium, not unlike that which was mandated by the reconstruction of our antiquated sewer system in the early 1990's, looms on our horizon. What price, in both dollars and lifestyle, will we have to pay to supply our future water needs? If our community is to continue to grow and thrive, where will we find the water to fulfill all of these demands? Fortunately, if we are willing to act now, the answer lies within our own backyard.

IV. A HEALTHY SOUTH FLORIDA NEEDS A HEALTHY EVERGLADES

Many of us who have come to South Florida from other states and countries are familiar with aboveground reservoirs. In fact, across our country, many vacation spots have grown up around recreational lakes that are in reality giant, artificial water storage areas created by damming existing rivers. Clearly, the topography of South Florida does not permit this type of water storage, at least not aboveground. However, the entire Everglades is actually the tip of a giant natural underground reservoir. We believe its restoration to be the key to solving our future water supply needs. Its restoration is also an important means of preserving a valuable natural resource. Unfortunately in the past, we have failed to realize the true complexity of the Everglades system and have already wasted its resources in many ways.

“Whereas water was once the critical characteristic of the natural Everglades system, it has become its most limiting resource. Most important, there is a lack of adequate quantities and timely distribution of clean water to coincide with the system's natural cycles. This situation has reduced the natural Everglades to a degraded remnant ...Only half of the original Everglades remains in a near-natural state...As a result, the Everglades is an endangered ecosystem. It is not sustainable and, in the absence of significant changes, will continue to decline...to recapture the historical characteristics of the natural system and to achieve long-term

ecological sustainability, fundamental regional-scale changes in the water management system are essential.”²

It is time we realized that the changes we have deliberately and selfishly made to this *River of Grass* have resulted in the virtual decimation of our only available water supply reservoir. By draining the Everglades, we have reduced the size of this reservoir by almost 50 percent. By destroying more than half of its wetlands, we have lowered the quality of Everglades water through removal of the filtering capacity these wetlands once provided. To produce more dry land, we regularly cast off billions of gallons through our drainage system instead of allowing it to be stored in the Everglades to seep into the aquifer below. For us to abuse our only water supply system in this fashion is the epitome of foolishness. Yet, arrogantly abusing it in this fashion is exactly what we have done for the last fifty years. Ecologically, our well-intentioned draining of the Everglades has been a disaster as well. In our push to make more land, we have rendered the entire ecosystem of the Everglades unsustainable. Fish, aquatic and wildlife habitats have suffered substantially at our hand. Whole populations have been endangered, threatened and reduced; some as much as 90 percent. Others, not endangered within the Everglades itself, are destroyed by our ill-advised discharge of drained freshwater that contaminates their saltwater environments.

As citizens of this community, we are ashamed at what we have wrought. We must now use this shame as the prime motivator to ensure restoration of the Everglades and, through that restoration, the provision of our future water supply as well. Clearly, the need to restore the Everglades is not just a need based upon environmental concerns. Even the most environmentally insensitive of citizens would have to recognize the importance and necessity of water to our daily life. Once the Everglades is analyzed as a water supply system, there can be no disagreement. It must be restored.

V. THE EVERGLADES “RESTUDY”

Having reached this conclusion, we are indeed fortunate that there is an effort currently underway in our state to provide us with solutions. It addresses our fresh water supply needs while focusing on the restoration of the Everglades ecosystem at the same time. Authorized by

² Harwell MA, “Ecosystem Management of South Florida: Developing a Shared Vision of Ecological and Societal Sustainability,” *Bioscience*, Vol. 47, no. 8. (1997) p. 501, 502.

the United States Congress in 1992, this effort is a Federal “restudy” of the entire Central and Southern Florida Project, the ubiquitous canal system we have previously discussed. The mission of the restudy is to review all of the effects of this project and develop recommendations to restore the Everglades while, at the same time, providing adequate quality and availability of water to meet our needs in the future. We were able to obtain and review a draft of this plan, as it was released just as we neared the end of our term.

As grand jurors we clearly could not, in good conscience, review this plan for scientific correctness. We would not presume to substitute our own layperson judgment for the many studies, decisions and planning that went into its creation. However, as taxpayers, we are obviously going to be the ones asked to pay for this plan. As citizens, we are also going to be the ones to feel the direct results of its success or failure. In that fashion, we were relieved to have found within this plan the methodologies and concepts needed to address many of our previously stated concerns. We were also greatly impressed with its scope as well as its clarity of purpose and design. If successfully implemented, it envisions restoring natural water flow to the Everglades through the removal of many of the internal levees and canals built in the original Central and South Florida Drainage Project. This is expected to support the return of animal and aquatic wildlife through the restoration of natural water patterns. The improved delivery of freshwater to Florida Bay and Biscayne Bay will also improve the natural habitats of these important ecological areas. Finally, it is expected to alleviate the need for the detrimental freshwater releases that occur with our current drainage system. Through the use of existing technologies, it envisions a huge expansion in the methods used for storage of rainwater and therefore ensuring adequate water availability for all of South Florida. We will no longer waste so much rainwater by throwing it away “to tide.” The potential for water restrictions and increased water costs in our future will be greatly reduced and it is expected that we can truly plan to meet the future water needs of all water users, whether agricultural, rural or urban.

We commend the concerted, dedicated and thoughtful manner by which this restudy was completed. It is an example of government accomplishing an important goal by laying down a challenge with specific guidelines and then providing the methodology for input by all conceivable parties, groups and industries affected with an emphasis upon developing an agreed upon plan. If fully implemented, it will be one of the single largest public works projects ever attempted,

consisting of no less than a total transformation of South Florida's current system of water supply. The projected funding needed for this plan is ambitious as well, constituting an incredible 7 to 8 *billion* dollars before completion by the year 2020.

As ambitious and well conceived as the plan is, we nevertheless recognize that it will not meet with unanimous agreement. It will substantially alter some current uses of land in the Everglades area. It will displace some agricultural users. It will impact the livability of the "8 1/2 square mile residential area" bordering on Everglades National Park through deliberately increased water levels. We also believe there to be serious and important issues remaining about the quality of the water this plan envisions flowing through the Everglades itself. The method by which contaminants such as phosphates and pesticides (all harmful to the Everglades ecology), will be filtered from this water need to be more adequately addressed. Clearly, any attempts at restoration will be quickly negated should we fail to abate current practices and recontaminate the areas we have reclaimed. In addition, some of the technology envisioned to make this plan possible has never been tried on this scale before. Yet, we remain optimistic that all of these important issues will be brought to the table, equitably debated and resolved before the final recommended plan is presented to Congress for funding in July of 1999.

However, it is at this point that we envision a crossroads being reached. We are gravely concerned that the process that follows will be an example of government's worst side, resulting in mandates that are only partially funded and solutions which will languish unfinished for years. The congressional legislation that mandated the restudy envisions federally funding 50 percent of the cost of the plan. The remaining half will have to be obtained from state and local tax dollars. We have no reservations whatsoever about the importance of this restoration. We have great reservations about the ability of our federal, state and local governments to truly work together to supply the needed funding to completely implement the final recommended plan.

Witnesses have told us that a restoration of the unique national resource we call the Everglades has total and unanimous support throughout all areas of our state. However, witnesses have also told us, that the needed restoration of the Everglades ecology alone does not need the full implementation of the restudy plan. Should funding on the federal, state or local level fall short, we foresee a future debate over which areas have the greatest needs, and thus the

greatest likelihood, of implementation. Should it come down to which communities in our state will have their water needs addressed by a limited implementation of this restudy plan, unanimous support will clearly erode. Once we understand the method by which the flow of water into the Biscayne Aquifer reaches us, we also understand that we are at the “end of the line.” It does not take us very long to foresee the problems that can arise for us in South Florida, should the water needs of the middle of our state require that more water be removed from the underground flow before it has a chance to filter through to the Biscayne Aquifer beneath us. Without a commitment to fully fund this plan, the stage may be set for a future statewide battle over water supply. While witnesses have told us that the system of permits currently used by the South Florida Water Management District would prevent this from happening, we are not so confident in this belief. The political reality is that water “wars” have already occurred elsewhere in our state.³

Because of this, the need for us in South Florida, and particularly here in Miami-Dade County, to become more active, aware and involved should be a paramount concern. The need for every citizen to realize what is truly at stake here should be very apparent. We must require no less than complete implementation of this important restoration plan.

VI. THE MIAMI RIVER

As a part of our examination of future water supply issues, we chose to spend a portion of our term focusing upon the largest flowing body of freshwater in our community, the Miami River. This River’s water is mostly sourced from Everglades drainage and it is an integral part of the South Florida flood control system we have previously discussed. Unfortunately this body of water, once so important economically that it gave birth to the City of Miami, today lingers mostly forgotten to the vast majority of people who call Miami their home. As grand jurors, we are forced to admit to being among this majority. We all came to our service knowing the name of the Miami River, but not its true nature. If we reflected upon it at all, it was with complaints at delays caused by upraised drawbridges or to joke about the harm swimming in its water could

³ “It took decades for St. Petersburg, Tampa and Pinellas, Pasco and Hillsborough Counties to settle their own battles over water”, Watch out, Hernando, for thirsty neighbors, St. Petersburg Times, October 26, 1998.

cause. Our examination of the river during our term has revealed to us how surprisingly important a role it continues to play in our community today.

Running through the heart of Miami, the river is a hub through which billions of dollars of national and international commerce flows. It is the fifth largest seaport in the entire State of Florida. Its cargo trade spans all of South America and the Caribbean. On its banks lie hundreds of businesses. Thousands of residents make these banks the location for their homes. Portions of this river are so lovely that pictures could grace picture post cards. We spent a day traveling on this river and found it incredibly revealing. We were amazed at the diversity of usage we witnessed. We left with a changed perception and the firm belief that few natural resources within our community could be considered its equal. The protection of this river should be a priority for us all.

Our lack of awareness about the value and importance of the Miami River is highly evident in the way we have used it in the past. For years it was our convenient dumping ground and provided an easy method for disposal of our sewage and industrial waste. As recently as 1991, a predecessor grand jury focused its attention on the river and found:

Today, the county's sewer system pours raw sewage into the Miami River because of deteriorating pipes and operating systems unable to meet peak flow requirements. Routine water quality monitoring from 1979 to 1990 has documented both acute and chronic fecal coliform contamination of the river. Such findings indicated unhealthy levels of bacteria, from tens of times to hundreds and thousands of times beyond what is considered acceptable. Today, each rainfall fills the storm water system with hazardous materials washed from the streets and deposits these materials into the river. Today, due to a lack of enforcement at all levels of government, vessels empty their bilge tanks of pollutants contaminating the river. Today, recycling and salvage yards both intentionally and inadvertently dump metals and wastes into the river. Today, shipyards and ships dump waste materials, waste oil and paint flakes into the river. Sediment testing for trace metals, done in 1984, 1989 and 1990, has consistently indicated concentrations of copper, lead, cadmium, zinc, silver and mercury. Through benign neglect and planned desecration, this gentle river has been turned into a cesspool unfit to be utilized for drinking, fishing or swimming.⁴

In light of our new found knowledge of the importance of this river, we felt it important to our community that we briefly revisit what our predecessor had found. That grand jury made a

⁴ Final Report of the Fall Term 1991 Dade County Grand Jury, "The Miami River: Beauty And Beast," p. 2.

number of recommendations to our local agencies and elected officials. We decided to examine the changes, if any, these recommendations had caused.

We were pleased to initially find that substantial improvements have been made in a number of areas the 1991 Fall Term Grand Jury had addressed. Exceptional strides have been made to reduce the continued pollution of the river. The massive sewage overflows that once contaminated the river on a regular basis have been virtually eliminated by an extensive reconstruction of our entire antiquated sewer system. Regular detection and, if needed, stringent prosecution of polluters of the Miami River have been, and continue to be, a top priority of the Miami-Dade County Department of Environmental Protection, The Miami-Dade County State Attorney's Office, the State of Florida Department of Environmental Protection and the Florida Marine Patrol. Through their joint efforts, a sense of accountability and responsibility for the abatement of pollution has permeated the entire Miami River community. We congratulate all of these agencies for their successful efforts in this regard and urge them to continue their vigilant efforts. But, while many of the problems highlighted by our predecessor grand jury have been and are being addressed, two issues of prime importance to the river's future, governance and dredging, remain totally unresolved.

A. Governance Of The Miami River

The Miami River we examined exists in a world of overlapping jurisdictions, interchangeable governmental obligations, duplicative enforcement authority and conflicting public and private interests. Amazingly, this is exactly the situation our predecessor grand jury found when they examined the river seven years ago:

Currently, 38 municipal, county, state and federal agencies have varying degrees of jurisdiction or regulatory control of particular facets of the Miami River. Despite this wealth of regulatory agencies, there is no legal structure to unify their divergent governmental actions. Therefore, enforcement is, at best, fractured, unnecessarily costly or duplicative, and at worst simply non-existent....These federal, state and local enforcement agencies openly admit a frustration with often overlapping authorities, a lack of resources and no overall leadership or direction. Additionally, despite the number of laws, regulations and regulatory agencies there remain numerous legal loopholes which do not seem to present such flagrant problems for other areas where port authorities exist.”⁵

⁵ Ibid, p. 5.

Our predecessor grand jury attempted to solve the governance problem with the creation of a port authority. In the almost seven years that have passed, this recommendation has failed to garner any unified support from any side. Considering the testimony we have heard, we certainly understand why. In addition to interagency issues there are substantial private interests, both residential and commercial, that overlap and conflict as well. Despite the limited time available to us this term, we have tried to hear from as many representatives of these various interests as possible. We were amazed to find such a lack of trust, and so much deep-seated suspicion, that we would have thought we were examining a community located in the Middle East and not one here in the heart of our hometown. The inability to work together has clearly frustrated the efforts of many dedicated and well-intentioned citizens who attempted to bring order to this chaos. Witness after witness described the long line of committees and groups who attempted and failed to bring about a unified, coordinated focus to the varied interests and jurisdictions on the Miami River. The 1983 Miami River Management Committee begot the Miami River Coordinating Committee (MRCC) in 1986 which begot the Miami River Study Commission in 1997. While we do feel that all of the members of these groups and committees worked diligently to try to address and remedy the many problems on the River, we also feel that the divergent priorities of the assemblage and lack of authority to implement improvements made progress extremely difficult, if not impossible. Some members, for example, favored development and economic expansion over environmental protection. Some sought to save manatees over improving navigation. Some advocated first for improving the neighborhoods that bordered the river. All members had specific and distinct ideas about how the river and its banks should be administered. Tellingly, no majority of members, neither those representing local government nor the commercial interests that thrive on the river, were willing to bear the significant cost of any improvement, nor were they willing to delegate any authority. An excellent example of this is the MRCC. For years, meeting regularly, it formed working groups, task forces, heard reports and made recommendations. To be fair, it did have some significant successes. Its efforts led to the formation of the Miami River Quality Action Team⁶, the removal of a significant number of

⁶ Consisting of 32 participants with varied interests on the river, this team worked to identify problems on the river and tried to build a consensus toward solving them.

derelict vessels that formerly were left abandoned in the river, and the provision of a forum for the diverse interests on the river to continue to meet and debate common issues in the hope of resolving them. But the MRCC was never able to tackle some of the larger issues facing the river. No matter how well intentioned, motivated and concerned, its volunteer members were never able to muster either the combined will or the appropriate authority to tackle and solve the truly major problems needing consistent oversight and governance on the river. This was not from a lack of desire. It was from a lack of authority and agreement.

We concur with our predecessor that one overall entity, such as a port authority, is necessary to adequately address the entire operational and environmental integrity of the river. Unfortunately, their recommendation of a port authority never gained the needed support or consensus from the various interests on the river. Therefore, we have chosen to focus on the newly created Miami River Commission as the one final opportunity to resolve this issue once and for all. When it was created by our state legislature this year, they provided that:

“The Miami River Commission is hereby established as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues, to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the river area, and to act as the principal advocate and watchdog to ensure that river projects are funded and implemented in a proper and timely manner.”⁷

Fortunately, at the heart of this newly created commission is a statutory scheme that permits it to “accept any specifically defined coordinating authority or functions delegated to [it] by any governmental entity.”⁸ Therein lies the single most important difference between The Miami River Commission and those that came before. Every effort must be made to avoid the mistrust and “turf” battles that previously prevented overall actions to be taken regarding the Miami River. We must not undermine the promise this commission shows. The Miami River Commission must not simply become a reincarnation of the various committees and commissions that preceded it. The different agencies who possess jurisdictional power must delegate to this commission the

⁷ Chapter 163.06 (1) (a), Florida Statutes, 1998.

⁸ Chapter 163.06 (1) (b), Florida Statutes, 1998.

authority that is needed. Without this simple but important act of trust, we may squander our last chance to solve the river's governance problems.

B. Dredging The Miami River

The need to dredge the bottom of the Miami River was studied and analyzed in great depth by the 1991 Fall Term Grand Jury. We do not feel it necessary to republish the same extensive analyses here. Suffice it to say that the bottom of the Miami River contains a substantial buildup of sediment. This buildup threatens navigational usage of the river by substantially decreasing its depth. As a result, many ships using the river today must do so only at high tide or risk running aground. This sediment is also an environmental hazard. Numerous studies have determined it to be hazardous or toxic to marine life and aquatic habitats⁹. Environmentalists and scientists fear these sediments are being flushed from the Miami River into Biscayne Bay, thus posing a distinct environmental threat to that extremely important body of water. The issue for us, therefore, is not the reason this dredging is needed nor even the method by which it should be accomplished. For us, the primary issue is the fact that for over twenty years we have known about these problems, studied them, discussed and debated them and planned to solve them. Yet, absolutely no action has occurred. It was truly amazing and incredibly frustrating to read the words of our predecessor grand jury written seven years ago, and realize that we have heard the same issues discussed, and the same solutions proposed, during our term. It was *deja vous* all over again. The dredging of the Miami River is the perfect example of an issue that has been studied to death without resolution or closure. Meanwhile, the estimated cost of the dredging project has increased from \$17 million dollars during our predecessor's term to more than \$120 million dollars during ours. Everyone agrees with the need to dredge the river. Everyone continues to disagree with why it is needed, how it should be accomplished and who will pay for it. The MRSC, ostensibly created to "conduct a comprehensive study and review of the restoration and enhancement of the Miami River and Biscayne Bay"¹⁰, tried to address this important issue. But given no authority or power to implement the results of their studies, they

⁹ For the most recent see, "Magnitude and Extent of Chemical Contamination and Toxicity in sediments of Biscayne Bay and Vicinity," Review Draft, U.S. Department of Commerce, NOAA, 2/13/98.

¹⁰ Florida Legislature, Specific Appropriation 1196 (1997).

accomplished nothing. Not surprisingly, their January 28, 1998 report is replete with frustration at a lack of ability to compel local elected officials to act,

“...the problem of contaminated sediments in the River is [being] allowed to worsen, and now legitimately threatens Biscayne Bay, but not one campaign theme of any politician deals with the impending crisis.”¹¹

This pattern has now become, to us, wearily repetitive. We too are frustrated at the unwillingness of local governmental leaders to champion the river’s cause. Perhaps we are too naive when it comes to “river politics”, but to us the answer seems simple. The sediments on the bottom of the Miami River pose a clear and present danger to navigation and shipping, to the environment and ecology of the river and to the environment and ecology of Biscayne Bay. It must be removed. No more studies are needed. No more debates are required. The Miami River needs to be dredged for both environmental and navigational reasons. We are of the belief that the funding needed can be found if the desire to accomplish this mission is sincere and steadfast. We expect all of our governmental agencies and local elected officials to rally behind this issue and make sure solutions occur.

VII. CONCLUSION

The complete lack of progress we observed concerning the issues of dredging and governance of the Miami River provides unfortunate justification for some of our worst fears. If we are incapable of reaching agreement and implementing solutions for these local issues, how will we as a community and as a state deal with the much broader issues relating to our future water supply? Clearly, the history of these stalemated Miami River issues must not be repeated. A recurrence of the mistrust and authority squabbles exemplified by these issues must be prevented as we wrestle with funding the full implementation of the Everglades restoration plan. Through this report, we have intended to deliver a wake-up call to our community and our state. Increased awareness, participation and perseverance by our entire community is needed. A willingness to compromise for the common good must be found. We must not allow our past failures on the Miami River to become the harbinger of our inability to solve our future water supply crisis. Our community must stand united on these issues. As a grand jury, we have

¹¹ Miami River Study Commission Report, “The Miami River, A Call to Action”, January 28, 1998, p. 3.

identified the lack of local political leadership and initiative as a primary impediment to progress. Yet, rather than simply pointing fingers at our elected officials, our community must share the responsibility for rallying around these issues and compelling our local politicians to lead, not follow, our guide. Pride and involvement by the citizenry is a crucial component in this process. While we will unfortunately never completely return the Everglades to its full splendor nor completely recreate the Miami River of the past, we must strive for a better future for our children and our community. The continued growth of all of South Florida hangs in the balance.

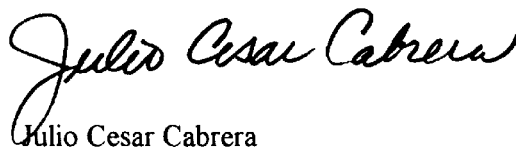
ACKNOWLEDGMENTS

We, the Miami-Dade County Grand Jury, would like to take this opportunity to express our sincere thanks to the members of the court for their dedication and expertise in the law. We were given a unique opportunity to represent our peers in providing a better future for this area concerning environmental issues.

This Grand Jury's term was filled with representatives from our multi-ethnic community. Our six month term proved to be a most memorable and worthwhile experience to all of us that were chosen to serve our community. We are all deeply proud to be living in a county with such highly dedicated and educated professionals. We are indebted to the First Deputy Chief Assistant State Attorney, Chet Zerlin. Mr. Zerlin is an honest and open-minded individual whose efforts enabled us to do our job with great efficiency. Our Administrative Assistant, Rose Anne Dare and our Bailiff, Nelido Gil, were instrumental in making sure the Grand Jury runs efficiently.

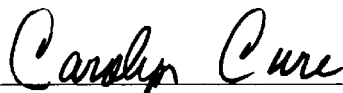
We are thankful to the honorable Judge Judith L. Kreeger and State Attorney Katherine Fernandez Rundle for their service to the residents of Dade County. We also would like to thank Assistant State Attorney Gary Winston for his expertise in our investigations. We gratefully acknowledge all of the dedicated law enforcement agencies of Dade County for their thankless efforts in a life threatening profession.

Respectfully submitted,



Julio Cesar Cabrera
Dade County Grand Jury
Spring Term 1998

ATTEST:



Carolyn Cure
Clerk

Date: November 24, 1998