

The Seminole Tribe of Florida: Keeping the Everglades Wet

by Jake Colton Golden

Deep yellow eyes peer out from underneath the water as an airboat cruises the surface. Mangroves extend their roots further down into the peat, reaching depths and adding strength. The sawgrass sways in the wind as a park ranger and researcher navigate through endless water alleys. A storm approaches with looming thunderclouds overhead; today's work might be ending, but an enduring struggle seems to never leave. The Everglades remains a mysterious, but fascinating place. Comprising most of Southern Florida, the Everglades are a unique ecosystem. Throughout the history of the United States, the "Glades," as some may call them, have been a hindrance and refuge depending on the perspective. White settlement encroached upon the land early on, seeing little value in preserving the muddy swamps. The Native American tribes and peoples that are living there are civilized and hold onto livelihoods based upon the Glades. However, it would be the Seminole Tribe of Florida who would become the leader in protecting the sacred land. An ecosystem connected to the seas and fertile soil inland is called a home by many. While great tasks have been completed through water management to secure this area, new threats are arising. Keeping the Everglades wet may be the only lifeline for South Florida. Protection of the sacred Everglades is the cornerstone not only for the tribe, but also for future health of Florida. Climate change is a primary shaker in this system. Through the threat of sea level rise and saltwater intrusion, the Everglades are at risk of further depletion and possible disappearance. This monstrosity will have ripple effects across the state of Florida and affect societies and peoples. The key element to aid in its protection is water. Under the comprehensive Everglades Restoration Plan and the Seminole's Water Rights Compact with the state, protection of this ecosystem is more feasible and serves as a route to climate adaptation.

Before discussing the Everglades and the Seminole Tribe, there needs to be a brief discussion on the threat of climate change, particularly sea level rise. While this is one of the most pressing physical issues facing the state of Florida, where both the Glades and the Seminole reside, sea level rise is at risk of permanently damaging the Florida coast. Many cases studies focus on the impacts of sea level rise, but the

most pertinent case rests with the city of Miami and Miami-Dade County. Miami represents a growing problem with coastal cities trying to adapt and mitigate rising waters. It serves as a paradigm of fighting a war of attrition with the environment, where more than likely Mother Nature will win out in the long haul. Miami, along with much of the Eastern Seaboard is experiencing sea-level rise first hand. Estimates by agencies like U.S. Army Corps of Engineers (USACE), National Aeronautics and Space Administration (NASA), and the National Oceanic and Atmospheric Administration (NOAA) predict that by 2100, sea-level rise will increase from eight inches to a high of six feet that has the potential to affect roughly 2.5 million people.¹ NASA showcases, through its data collection and expertise, that the melting of ice caps and oceanic thermal expansion has expedited the level of rising seas.² Without being burdened down by the science, it can be thought of as going to a restaurant and ordering a drink filled with ice. This would exemplify the carbon, ice and sea levels prior to the Industrial Revolution. However, as someone is eating and enjoying their meal, the room begins to warm and the ice starts to melt just as the ice caps and glaciers are melting today. Without regard, the meal continues, but by the end, all the ice has melted, and though the volume has increased, the taste of the drink is soured, so to say, by sitting in a warm environment for an extended period of time. A simple explanation, it nonetheless illustrates the overall point that this phenomenon is occurring. In recent years, Miami has become prone to high flooding. Streets flood regularly and during “king tides,” known as sunny-day flooding, water levels rise exponentially. The geology of Miami and most of South Florida sits atop of porous limestone. Within six feet of sea level and a limestone foundation presents extreme susceptibility to flooding. Not only do rising tides encroach on Miami’s roads, but also the limestone allows the water to be pushed upwards through the sewer systems, bringing polluted water to the surface during king tides. Rising tides are causing larger problems for the city’s water supply.

The previous infrastructure of underground pipes became useless as it reversed, accelerated, and helped the flooding by pushing water through the sewer system to the streets but has since been accommodated by the installation of one-way flex valves and pumps to push the water back out to Biscayne Bay.³ Although the 2014

1 David Kamp, “Can Miami Beach Survive Global Warming?” *Vanity Fair*, November 10, 2015. Accessed April 12, 2017. <http://www.vanityfair.com/news/2015/11/miami-beach-global-warming>

2 NASA, “A Blanket Around the Earth,” *NASA Global Climate Change*. Accessed April 12, 2017 <http://climate.nasa.gov/causes/>

3 Sam Price-Waldman, “Is Miami Beach Doomed?” *The Atlantic*, February 8, 2016. Accessed April 12, 2017. <http://www.theatlantic.com/video/index/460332/is-miami-beach-doomed/>

Miami-Dade County Water Quality Report notes no increased levels of contaminants,⁴ the long-term effects of continued seawater encroachment could increase water pollutants and other water problems. Tests completed in the past few years at various discharge sites throughout the city have shown an increase in fecal matter and other pollutants; however, the natural cycle of tidal flushing is keeping the dirty water from building up in the bay.⁵ It may not seem like a concern now, but that polluted water is headed back to the coral reefs, and the lingering pollution will negatively affect the ecosystem and the city as it maintains growth.

City managers are seeing an increase in the groundwater table,⁶ making the county even more susceptible to heavy downpours since salinity-control structures are at equilibrium and new wells and pumps are needed to send water back to the ocean as salt water continually encroaches.⁷ With this continuance, salt-water intrusion will affect the quality of drinking water in the Biscayne Aquifer and the production of agriculture in region, of which South Florida consumes 3 billion gallons per day from the aquifer and the Everglades.⁸ Continued flooding of saltwater in the Everglades region could result in faster depreciation of the limestone and the swift erosion of the peat soil, both of which would open up a path for saltwater intrusion farther inland.⁹ The erosion of peat soil occurs when salt enters the soil and dries it out while also harming the structural integrity of grasses that it is supporting. When wave-like action occurs, the dried peat is washed away. This is accelerated through the use of groundwater pumping, in which the Biscayne Aquifer is unconfined and weighs less than salt-water, allowing the pressure from sea level rise to intrude in a degrading Everglades system (a change in hydrostatic pressure).¹⁰ Though the ecosystem would be damaged, the main concern for the people is the quality of

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- 4 Miami-Dade County Water & Sewer Department, "2014 Water Quality Report," City of Miami. January 1, 2015. Accessed April 12, 2017. <http://www.miamidade.gov/water/library/reports/water-quality-2014.pdf>
 - 5 Jenny Staletovich, "Miami Beach king tides flush human waste into bay, study finds," Miami Herald, Miami, FL, May 16, 2016. Accessed April 12, 2017 <http://www.miamiherald.com/news/local/environment/article77978817.html>
 - 6 Randy Rogers, "Miami-Dade County Shores Up for the Rising Tide," Sustainable City Network, January 6, 2016. Accessed April 12, 2017 http://www.sustainablecitynetwork.com/topic_channels/environmental/article_of47318e-a9b8-11e5-b67d-2b1622f4435d.html
 - 7 Jeff Goodell, "Goodbye Miami," The Rolling Stone, June 20, 2013. Accessed April 12, 2017 <http://www.rollingstone.com/politics/news/why-the-city-of-miami-is-doomed-to-drown-20130620>
 - 8 Ibid.
 - 9 Jenny Staletovich, "Beyond the High Tides, South Florida's Water is Changing," Miami Herald, Miami Beach, FL. October 25, 2015. Accessed April 12, 2017. <http://www.miamiherald.com/news/local/environment/article41416653.html>
 - 10 Stephen Davis, "Sea level rise, South Florida and the Everglades," The Everglades Foundation, Palmetto Bay, FL, December 1, 2015. Accessed April 12, 2017 <http://www.evergladesfoundation.org/2015/12/01/sea-level-rise-south-florida-and-the-everglades/>

their drinking water. By pressing farther inland and through continued sea level rise, the saltwater would be able to infiltrate the high water table, effectively shutting down well fields. Thus, there is an estimated \$10 billion Everglades restoration plan to counter the effects of flooding.¹¹ Allowing the deprecation of the Everglades to continue by not combatting sea level rise only increases the failure of an ecosystem that holds a majority of the freshwater for South Florida.

However, for the Seminoles, the health of the Glades means something different. The issues surrounding Miami affect more than the city proper. Issues like the erosion of soil and saltwater intrusion will affect the inland communities as well. The Everglades were an untamed wilderness prior to colonial settlement. Ales Hrdlicka, a Floridian anthropologist in 1920, described the lands as such:

Of the few as yet but very imperfectly explored regions in the United States, the largest perhaps the southernmost part of Florida below the 26th degree of northern latitude. This is particularly true of the central and western portions of region, which inland are an unmapped wilderness of everglades and cypress swamps, and off-shore a maze of low mangrove "keys" or islands, mostly unnamed and uncharted, with channels, "rivers" and "bays" about them which are known only a few of the trappers and hunters who have a greater part of their life in that region.¹²

The Glades and the Florida peninsula traded hands between European powers once Spanish explorers "discovered" the region. Although Seminole were living there upon European arrival, the Glades acted as lands under a colonial flag. The tribe separated itself from the Creek Confederacy of Alabama and Georgia and the Yamasee Tribe of the Carolinas,¹³ where they found a new homeland in present-day Florida. The Seminole Tribe of Florida today stems from those that fled into the most remote portions of the Glades during the American peninsular takeover. It would not be until the 1800s, centuries after its colonial discovery, that white settlers would attribute value to the Everglades. Under the possession of the United States, post-War of 1812, explorers and settlers used maps of days past to evaluate the condition of the Glades for future settlement. However, the Indigenous peoples living

11 Joey Flechas and Jenny Staletovich, "Miami Beach's Battle to Stem Rising Tides," *Miami Herald*, Miami Beach, FL. October 23, 2015. Accessed April 12, 2017. <http://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article41141856.html>

12 J.E. Dovell, "The Everglades Before Reclamation," *Florida Historical Quarterly*. Vol. 26. No. 1. July 1947. Pg. 1. Accessed April 12, 2017. <http://www.jstor.org/stable/30138629>

13 Barbara Monahan, "Florida's Seminole Indian Land Claims Agreement: Vehicle for an Innovative Water Rights Compact," *American Indian Law Review*, vol. 15 no.2. 1990/1991. University of Oklahoma College of Law. Pg.344. Accessed April 12, 2017. <http://www.jstor.org/stable/20068682>

in the region held the best land. Thus, the 1830s and 1840s was a time of Indian Removal from their ancestral homelands by the U.S. federal government. Under the direction of President Andrew Jackson, the Indian Removal Act was signed in 1830 to systematically relocate Southeastern Tribes to the West. The Seminole proved to be the toughest case of removal, leading to a series of conflicts known as the Seminole Wars. A series of conflicts begun in the early 1800s that lasted through the 1850s, the Seminole Wars resulted in the majority of the tribe being relocated to Indian Territory and the Floridian peninsula opening up to white encroachment.¹⁴

As the Seminoles retreated further into the Glades their populations declined, settlers, the federal government, and the soon to be state legislature were scheming on how to reclaim the land for human consumption. Reclamation of the land would make room for agriculture due to productive fertile peat soils with the establishment of plantations of sugar, olives, oranges, limes and coffee at the expense of slave labor.¹⁵ In order for a productive plantation economy to thrive, the swamps needed to be drained. The Overflowed Land Grant Act was “signed by President Fillmore on September 28, 1850. Its only provision was that the proceeds of the sale of any of the lands so granted should be applied exclusively to the purposes of reclaiming the swamp and overflowed land.”¹⁶ This also helped establish the Internal Improvement Fund for the state, which managed the sale of lands to improve overland transportation routes by land and waterways.¹⁷

Nearly a century after the passage of the act in 1850, in 1964, the Indian Claims Commission found that the Seminole held aboriginal land rights as of 1820.¹⁸ Throughout the late 1800s and early 1900s, the federal government had reserved lands in the Everglades for the remaining Seminole and neighboring Miccosukee Tribe; however, continued population growth of the Florida peninsula caused further excavation of the Glades with the Internal Improvement Fund building canals and drainage ditches.¹⁹ Roughly twenty years after the passage of the Indian Reorganization Act of 1934, and coincidentally the creation of the Everglades National Park in 1934, the Seminole Tribe of Florida became federally recognized

14 J.E. Dovell, “The Everglades Before Reclamation,” pg. 28

15 Ibid. pg.34

16 Ibid. pg. 37

17 Ibid. pg. 38

18 Allison Dussias, “The Seminole Tribe of Florida and the Everglades Ecosystem: Refuge and Resource,” Florida International University Law Review, vol.9 no.2. Spring 2014. Pg.230. Accessed April 12, 2017. <http://collections.law.fiu.edu/lawreview/vol9/iss2/7>

19 Ibid. pg.234

in 1957.²⁰ After years of land claims disputes due to the creation of the Everglades National Park and federal recognition of the tribe, the Seminole, today, hold six separate reserved lands in Florida. There are three primary reservations, Brighton (north of Lake Okeechobee), Hollywood (situated between Miami and Fort Lauderdale), and the centrally located Big Cypress in the Everglades.

There is a traditional belief that the health of the Everglades represents the health of the Seminole. Minnie Moore Willson, a longtime friend and historian of the Seminole Tribe captures the essence of the socio-ecological relationship, “We love this land more than all the rest of the world. An Indian who would not love the land that holds the graves of his fathers is worse than the beasts of the forest.”²¹ She continues with the state’s obligation to maintain this healthy relationship, “When Florida accepted the gift of the Everglades country from the national government in 1855, she accepted the Indian as part of the possessions. Until Florida is ready to repudiate her title to this grant of ‘swamp and over-flowed lands’ she cannot repudiate her obligations to her Seminole population.”²² Following in the footsteps of past ancestors, the Seminole Tribe went to battle, this time for their water rights.

The battle began in 1948 after hurricanes damaged lands and increased flooding in inland Florida. It was determined to continue the prolonged excavation of the Glades in the name of flood control by the predecessor to the present-day South Florida Water Management District (SFWMD).²³ The flood-control measures resulted in the creation of three interconnected conservation areas that exist today within the Everglades, but also included Seminole reservation lands that were set aside. Thus, in 1950 the Water Management District was granted a flowage easement that cut through Seminole cattle reservation lands in Big Cypress and the levee project would flood some of the hunting grounds during the rainy seasons.²⁴ Therefore, this notion and the completion of the project were without regard to Seminole sovereignty or compensation. The tribe filed lawsuits against the state and the water district in the 1970s and 1980s to assert rights to land claims, of which came the Seminole Indian Land Claims Settlement Act of 1987. The Act clarified land claims

20 Harry Kersey, Jr, “The East Big Cypress Case, 1948-1987: Environmental Politics, Law, and Florida Seminole Tribal Sovereignty,” *Florida Historical Quarterly*. Vol. 69. NO. 4. April 1991. Pg.458 Accessed April 12, 2017. <http://www.jstor.org/stable/30147555>

21 Minnie Moore-Willson, “The Seminole Indians of Florida,” *Florida Historical Quarterly*, vol.7 no.1. July 1928. Pg.85. Accessed April 12, 2017. <http://www.jstor.org/stable/30150811>

22 *Ibid.* pg. 86

23 Harry Kersey, Jr, “The East Big Cypress Case, 1948-1987.” Pg. 460

24 *Ibid.*

between the tribe, state, and the soon-to-be SFWMD through exchanges of land and monetary compensations and inclusion of tribal land as held in federal trust; however, the most noteworthy aspect was the Water Rights Compact, which granted the Seminole “right to withdraw as much water on a per-acre basis as the highest priority users in the district, in return for which the Seminoles agreed to be bound by the substantive requirements of a regulatory system concerning water use, surface water management, and other environmental requirements.”²⁵

The Water Rights Compact is an extraordinary piece of legislation. Prior to 1987, the Seminole Tribe was subjected the state’s water permitting system under the Florida Water Resources Act of 1972; however, conflicts quickly arose due to the nature of state and tribal sovereignty. Past flooding of tribal lands and diversion of water away from the reservation by state civilian landowners, and minimal, if any at all, consultation with the tribe on water management, led the Seminole to seek out litigation regarding permanent water rights.²⁶ Uniquely, the tribe sought out its claims by petitioning the court to determine rights based upon the Winters Doctrine. Traditionally, eastern states, those east of the 100th meridian of the U.S. relied upon riparian water rights where landowners could use the water at given amounts based on their location by a water resource like a river. In the western states, the doctrine of prior appropriation was adopted, which called for “first in time, first in right,” as long as there was beneficial use of the water allocation. The Winters Doctrine was adopted to allocate water to tribal reservations on a “time immemorial reserved rights” basis. This doctrine helped alleviate water struggles of many western tribes, but had not been applied to eastern tribes. In pursuing this Compact, the tribe wanted guaranteed reserved rights to satisfy tribal needs and develop their lands while the state hoped to gain an enforceable commitment from the Seminole to abide by Florida water laws and quality standards.²⁷ Ultimately, the tribe gained perpetual federal water rights for consumptive uses and eliminated the permitting process for the Seminole reservations; therefore, the Compact placed Seminole water use to follow “essential terms and principles of the state system.”²⁸

This means that the tribe retains its sovereignty in water policy and development

25 Harry Kersey, Jr, “The East Big Cypress Case, 1948-1987.” Pg. 474

26 Jim Shore and Jerry Straus, “THE SEMINOLE WATER RIGHTS COMPACT AND THE SEMINOLE INDIAN LAND CLAIMS SETTLEMENT ACT OF 1987,” *Journal of Land Use and Environmental Law*, vol.6 no.1. Winter 1990. pg.10. Florida State University College of Law. Accessed April 12, 2017. <http://www.jstor.org/stable/42842568>

27 *Ibid.* p. 11

28 Barbara Monahan, “Florida’s Seminole Indian Land Claims Agreement.” Pg. 361

so long as it complies with the Compact and is by no measure under state administrative control. Failure to comply can be challenged by the state or the SFWMD in federal court, where the tribal processes are better protected. Adoption of a Tribal Water Code and office were requirements as well as providing reasonable assurances to the SFWMD that planned water use will not adversely impact current water supplies or harm the surrounding environment, thus, the tribe was mandated to bring its current facilities and infrastructure into compliance.²⁹ The Compact calls for a tribal groundwater preference with many of the same terms applied to it as to consumptive use. This also clarified potential problems with third party permitting, in which the tribe can object to a state civilian permit if it will negatively impact tribal water or land and civilian landowners can submit complaints and potential litigation to the SFWMD if the tribe adversely impacts them.³⁰ Thus, the Water Rights Compact of 1987 was revolutionary in that it was the first tripartite agreement on federally recognized and protected tribal water rights in the eastern United States. It established a cooperative arrangement between state and tribal entities to ensure an adequate water supply to all parties with assurances to protect the surrounding environment. By evoking and successfully adjudicating the Seminole water rights under the Winters Doctrine, the tribe set precedence for future eastern tribal water settlements.

Operating both legally and within their sovereignty, the Seminole focused on the Brighton Reservation water augmentation project since the Compact was effective immediately. The Brighton project aimed to bolster and upgrade the tribe's allocation of fifteen percent of the water running from Lake Okeechobee to the Indian Prairie Basin so as to provide for cattle ranching and citrus grove agriculture.³¹ Pumping systems were installed to properly allocate the amount needed while flood control measures were undertaken by the tribe to accommodate for future flood management. A resolution was quickly found between non-Indian citrus growers and tribes that called for sharing of pumps at the common boundaries.³² Though, it is necessary to point out that at the time of the compact signing, the Seminole Tribe was not required to limit its water use in times of drought or in dry seasons across the state. Land was also acquired post-Compact, but the Compact did not distinguish if newly acquired land was applied to Compact principles.³³ These issues would

29 Jim Shore and Jerry Straus, "THE SEMINOLE WATER RIGHTS COMPACT." Pg. 15

30 Ibid. Pg. 18

31 Barbara Monahan, "Florida's Seminole Indian Land Claims Agreement." Pg. 366

32 Barbara Monahan, "Florida's Seminole Indian Land Claims Agreement." Pg.367

33 Ibid.

obviously affect non-Indian users and are a set of controversial issues. However, these issues would have to be settled at a later date as establishing water quality standards for the tribe and the Glades became their next step.

As the Water Rights Compact was being finalized, the U.S. Environmental Protection Agency (EPA) was amending the Clean Water Act (CWA) to provide tribal communities the opportunity to begin administering CWA programs on tribal reservations. The amendment allows tribes to petition the EPA to administer water quality standards on reservations. This in effect forces the EPA to acknowledge their tribal sovereignty, if approved.³⁴ The Seminole, in the 1990s, sought and were awarded CWA quality standards in order to preserve religious, cultural, recreational, and commercial activities that are prevalent upon a healthy Everglades ecosystem.³⁵ Thus, ecosystem protection is of the highest priority and a one-size-fits-all approach for the tribe is inadequate; therefore, separate water quality standards were developed for each Seminole reservation. By pursuing this route, the tribe recognizes the connections between water resources on the reservation and the overall health of the entire Everglades ecosystem.³⁶

Through this mechanism, the tribe established categories of designated use of water within communities. The most important being Class 2, which protects water for fish and wildlife and recreational activities. The Seminole Water Commission aims to preserve these Class 2 water uses in good quality under the ruling, "For the conservation of the habitat of culturally important fish and wildlife and for the conservation of culturally important plant life, in order to protect the right of each member of the Tribe to carry on hunting, fishing and other traditional Seminole cultural practices."³⁷ By designating water uses as culturally/religiously important (highly significant water bodies), the tribe can impose stricter quality standards on these resource bodies and to some degree on the resource bodies that impact the former. This allows the tribe to monitor the quality of water coming from and going to the reservations and to request higher standards from outside sources that may be managed by SFWMD. These higher standards play a critical role in the Everglades restoration.

The United States Congress enacted the Comprehensive Everglades Restoration Plan (CERP) in 2000, authorized through the approval of the Water Resources

34 Allison Dussias, "The Seminole Tribe of Florida and the Everglades Ecosystem." Pg.242

35 Ibid. pg.241

36 Ibid. pg. 248

37 Ibid. pg. 244

Development Act of the same year. This would begin the long-standing commitment by the federal government to begin reversing its role towards the Glades. While the Glades were deemed ready to be named a national park in 1934, it would not be until 1947 that the Everglades became a U.S. National Park due to land acquisition and financing. The “River of Grass” or “Grassy Waters,” as called by the Seminole, was the first park unit to be designated this status solely for its biological diversity and not just iconic landscapes or monuments. However, due to human improvements like irrigation and drainage of the ecosystem by the Internal Improvement Fund since 1948, the park has been reduced to half its size, clean water flows have been reduced, and continue to face ecological deterioration from water availability competitions.³⁸

The Seminole Tribe began a restoration project in 1996, approved in 1998, in partnership with the U.S. Army Corps of Engineers (USACE) for the Big Cypress National Preserve (BCNP). Since this project was approved prior to the adoption of the CERP, it is not subject to approval by Congress for federal funding, which must administer approved funds to CERP projects. Truly, the BCNP project commenced to reverse the trends of increasing phosphorus loads from upstream agricultural activities near Lake Okeechobee that were coming into contact with water bodies on the Big Cypress Reservation.³⁹ The project would influence the CERP’s overall goals and simultaneously work to “restore more natural flows of water, including sheetflow; improve water quality; and establish more natural hydroperiods in the South Florida ecosystem.”⁴⁰ The Seminole and the USACE agreed to a 50/50 cost sharing of the projects, in which this system is currently in place for CERP projects with cost sharing between SFWMD and USACE.⁴¹

Today the BCNP is nearly complete. The project consisted of just over 4,100 acres and relied upon Seminole water quality standards to reduce agricultural runoff while the USACE built more conveyance and storage systems, and canals to fulfill the rehydrating of the wetlands on the preserve.⁴² This critical project coupled with CERP provides some hope for the Glades. It is important to note that the SFWMD and the Seminole have continued shared values in protecting and managing the Everglades.

38 Jane Graham, “Jump-Starting Everglades Restoration via Tools for Interim Progress,” *Natural Resources & Environment*, vol.27 no.4. Spring 2013. American Bar Association. Pg.7. Accessed April 12, 2017. <http://www.jstor.org/stable/24426039>

39 Allison Dussias, “The Seminole Tribe of Florida and the Everglades Ecosystem: pg.243

40 USACE and SFWMD, “Central and Southern Florida Project: Comprehensive Everglades Restoration Plan, Pre-CERP Baseline,” USACE Jacksonville District. April 2005. Pg.1

41 Allison Dussias, “The Seminole Tribe of Florida and the Everglades Ecosystem.” Pg.247

42 Ibid pg.248

The tribe was very aware from the onset of its water rights that issues like pollutants from upstream would not only impact their reservation adversely, but if those pollutants continued downstream, it could cause negative impacts to the ecosystem. This is one reason why the tribe established cultural and religious use of water to impose stricter standards so the overall health of the Glades ecosystem would be protected now and for future generations.

Even the CERP Final Draft of 2005 illustrates that Seminole water allocations must be considered and are protected by federal and state law,⁴³ demonstrating the effectiveness of the Water Rights Compact to influence Everglades restoration projects. Tribal sovereignty is further confirmed in the CERP through the Savings Clause, which guarantees that any water lost to implement the CERP projects will not be replaced, eliminated, or transferred...including the Seminole water entitlements.⁴⁴ Essentially this follows in line with the SFWMD implementation of “water reservations” and minimum flows and levels (MFL). It demonstrates that water used for CERP projects is entitled to the Everglades for natural uses and the water lost cannot be replaced with existing sources or allocations. This means there is a strong conservation approach buried within the plan since new water supply sources would need to be found in order to replace the lost water to the Glades. The clause calls for the continuation of the tripartite agreement and cooperation among resource managers when developing CERP projects. Though, the Seminole may be on their own for future project implementation.

The tribe has a presence in several groups concerning the Everglades, as well as hosting their own organizations. While environmental quality is of the highest concern, the Seminole have been in disagreement over the USACE’s project implementation considerations. Since the tribe has a seat at the table in these matters, it has voiced concern over short-sighted and narrowly approached projects under CERP, believing the ecosystem connectedness between projects is being outstripped by quick project planning to move on to other issues.⁴⁵ As seen from their historical socio-ecological relationship with the Glades and the ability of the USACE to be methodical and conservative in management, the two are creating tensions. Without disregard to the USACE known engineering approach, other problems are at play for CERP projects. Since the real estate crash of 2008 and

43 USACE and SFWMD, “Central and Southern Florida Project.”pg.9

44 USACE and SFWMD, “Central and Southern Florida Project.” Appendix B

45 Allison Dussias, “The Seminole Tribe of Florida and the Everglades Ecosystem.” Pg.252

proceeding property tax cuts for homeowners by legislators, the SFWMD, which relies upon property value assessments for most of its funding, has drastically reduced its annual budget.⁴⁶ This negatively affects funding for CERP projects, especially when they entail the 50/50 cost principle. The management district also establishes water reservations, for the protection of fish and wildlife, and MFLs, equivalent to in-stream flow requirements; however, many of the water bodies associated with these tools are linked to CERP projects.⁴⁷ Therefore, the inability to properly fund these projects is causing slow progression of restoration plans. Since the population of South Florida relies heavily upon fresh water found in the Glades' ecosystem, water managers have turned to conservation practices to save water while waiting for funding opportunities. Thus, the Seminole Tribe is left alone to continue with restoration projects on reservation lands.

Bringing this back to the issue of Miami and sea-level rise, the crisis of Everglades restoration and the health of the Seminole could be in disrepair. As discussed early on, saltwater intrusion is adversely affecting peat soils, groundwater wells, and water quality as it spreads further inland and rises higher. However, the natural ecosystem of the Everglades could help mitigate these effects and lead to adaptation strategies, but there needs to be perseverance of completing CERP projects with due time and consideration. The rising seas will affect the Seminole on the coastal reservations but will also begin to affect their agricultural production and their water quality.

Fighting for nearly two centuries, the unconquered people, known as the Seminole Tribe of Florida, have seen federal and state recognition of their sovereignty over the 20th century through policy. It has reasserted its rights to its lands and to its waters by re-territorializing itself in the state of Florida. Using their sovereignty and invoking the spirituality to never surrender, the Seminole have successfully taken back portions of their homeland and are restoring them to elegance and prevalence once again. Through the management of water, the Seminole Tribe has created hope for an ecosystem they have relied upon for survival. New challenges are arising that will need to be triumphed, but cities and tribes must learn from one another and continue cooperative agreements to restore the Everglades because the health of this ecosystem not only affects the Seminole but creates hope for South Florida to overcome this climate change dilemma. Keeping the Everglades wet means keeping the Seminole and South Florida flourishing.

⁴⁶ Jane Graham, "Jump-Starting Everglades Restoration." Pg. 8

⁴⁷ Jane Graham, "Jump-Starting Everglades Restoration." Pg. 10

