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U.S. Army Corps of Engineers, Jacksonville District  
ATTN: Andrew LoSchiavo  
701 San Marco Boulevard  
Jacksonville, Florida 32207-8175

and

Department of the Army  
c/o Ms. Krista Sabin  
U.S. Army Corps of Engineers  
Palm Beach Gardens Permit Section  
4400 PGA Boulevard, Suite 500  
Palm Beach Gardens, Florida 33410

**Subject: Final Environmental Impact Statement (FEIS) for the Everglades Agricultural Area Southern Reservoir and Stormwater Treatment Area (EAA Project) and Comments on the Everglades Agricultural Area Southern Stormwater Treatment Area ("A-2 STA"), Corps File Name: SAJ-2018-03427(SP-KDS) (A-2 STA)**

Dear Mr. LoSchiavo and Ms. Sabin:

Thank you for the opportunity to provide comment on subject.

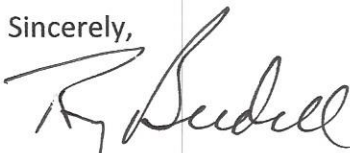
I am a career public servant with more than 35 years' experience in Florida water resource protection, restoration and supply. I have been personally involved in all aspects of Everglades restoration policy and program development and authorization. While employed in the Office of Agricultural Water Policy with the Florida Department of Agriculture and Consumer Services (FDACS), I was responsible for oversight of the department's participation in the assembly of the Yellow Book, developing CERP and in crafting final language in the 2000 WRDA. No element of WRDA 2000 was more important to the State of Florida in securing congressional authorization of CERP, than the inclusion of language referred to as the "savings clause". That language was agreed to by the ACOE and tied all future CERP projects and their operation to protecting the allocations of water for all permitted users that were in place at the time of the passage of WRDA 2000.

Lake Okeechobee is currently operated at an unusually low level due to emergency Herbert Hoover Dike repairs pursuant to the Interim LORS 2008 Lake Regulation Schedule. Lake operations are expected to shift in the year 2022 to the new Lake regulation schedule referred to as the Lake Okeechobee System Operating Manual (LOSOM). However, the EAA Project states that the Interim LORS 2008 Lake Regulation Schedule is an “intervening non-CERP event” and relies on this interim schedule as its base condition. This position by the ACOE is contrary to federal law. WRDA 2000 requires that the EAA Project as proposed would ensure that the water rights that existed in 2000 would be protected and restored. It is not acceptable and disappointing for the Corps to use the LORS 2008 emergency and interim schedule as justification to avoid complying with WRDA 2000, which was also to provide water for future needs. If sufficient water is not kept in the lake, all permitted users who rely directly or indirectly on the Lake will suffer and water rights will be harmed. If the EAA Project continues to rely on the Interim LORS 2008 Lake schedule as the base condition, the lost water rights from the interim schedule will not be restored as part of Everglades restoration, and the promises made by the Corps (and the SFWMD) to protect water rights that were in existence in the year 2000, as required in WRDA 2000, will have been violated.

To address these serious concerns, I recommend that the Corps comply with their promise to Florida and its permitted water users by developing clear operational protocols for inclusion in the EAA Project, defining their relationship to Lake Okeechobee operations to assure the proposed EAA Project operation will not infringe on the water rights permitted by the SFWMD as of December 2000, and the level of service provided to users at that time. I am also hopeful that the SFWMD will recognize the seriousness of allowing any infringement in the legal water rights it has permitted and support insertion of such operational protocols. Failure of the Corps to assure compliance with the provisions of the savings clause as written in WRDA 2000, will almost certainly result in litigation and further delay in CERP progress.

Thank you, again, for the opportunity to comment.

Sincerely,



Richard J. Budell, Managing Partner  
Budell Water Group