



May 4, 2020

Senator John Barrasso
Chairman
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

Senator Thomas Carper
Ranking Member
Committee on Environment and Public Works
United States Senate
456 Dirksen Senate Office Building
Washington, DC 20510

Senator Shelley Moore Capito
Chair
Environment and Public Works Subcommittee on
Transportation and Infrastructure
410 Dirksen Senate Office Building
Washington, DC 20510

Senator Ben Cardin
Ranking Member
Environment and Public Works Subcommittee on
Transportation and Infrastructure
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper, Subcommittee Chair Capito and Ranking Member Cardin:

The Everglades Foundation opposes current attempts to add harmful language to the America's Water Infrastructure Act (AWIA) of 2020 that would make the "savings clause" from WRDA 2000 Section 601(h)(5) of Public Law 106-541, applicable to the Lake Okeechobee Systems Operating Manual (LOSOM) and direct the U.S. Army Corps of Engineers (Corps) to use the lake regulation schedule in place as of December 2000 as the base condition for that analysis. This proposed language represents a major policy shift that would undermine federal and state investments made to date in critical water infrastructure that is restoring America's Everglades and recharging the primary water supply for all of Miami-Dade, Broward, and Monroe counties and a substantial portion of Palm Beach County—a population exceeding 5 million. It is inconceivable that this language would be inserted without significant analysis and open public discussion.

The "savings clause" applies only to Comprehensive Everglades Restoration Plan (CERP) projects implemented under WRDA 2000. The LOSOM is not a CERP project and should not be subject to the CERP authorizing language. The proposed language is directly counter to the spirit of WRDA 2000, which required the "savings clause" analysis to be conducted as Everglades restoration projects are brought online in order to ensure that benefits accrue to the ecosystem over time while protecting water users as those ecosystem benefits are delivered to the Everglades. The proposed language would lock in consumptive water uses that were in place in 2000 and do so before any CERP projects are brought online to send water south to federally owned resources, including Everglades National Park and Florida Bay.

Moreover, this harmful proposed language would permanently set the allocation of water in Lake Okeechobee to that in place on December 2000 for this and all future Lake Okeechobee operational changes without taking into account dam safety, toxic blue-green algae, climate change, and the state's inherent ability to allocate water for non-CERP projects and components. Consider:

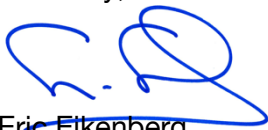
- The Corps had to deviate from the regulation schedule in 2000 because there was an imminent risk of dam failure, putting human life and property at risk. The Corps has yet to

make a determination if a return to that schedule represents an unacceptable risk to human life and property. This language forces them to potentially put human life and property at risk to guarantee irrigation water supply by raising the lake to a level the dike cannot bear.

- The Corps is currently dealing with toxic blue-green algae in Lake Okeechobee, which has damaging environmental, economic, and health effects when it is discharged. This language would hamstring the Corps in exercising its duty to protect human health, safety, and the environment.
- Locking in a regulation schedule from twenty years ago ignores the fact that our climate has changed and will continue to change. This language is an attempt to guarantee the sugar industry a level of service that no other water user in the country is given. As things become hotter, water is going to become scarcer, making the need for Everglades restoration and its reservoirs even more important.
- CERP was always intended to redistribute water more equitably to the natural system - that is the very definition of Everglades restoration. The proposed language would turn back the clock twenty years to a time when the Everglades was last in line for water during dry times. It would enshrine forever a 20th century water distribution scheme that hurts the Everglades, estuaries, federally protected lands, fisheries, threatened and endangered species, and Florida's 21st century economy.

This language seriously jeopardizes continued progress toward managing toxic discharges from Lake Okeechobee and greater ecosystem restoration. Over its twenty-year history, the savings clause has been one of the biggest impediments to Everglades restoration. Instead of being the shield that it was intended to be, it has become a sword for the sugar industry to oppose projects or demand they be reconfigured to their benefit and the environment's detriment. This language extends the sword beyond CERP projects to non-CERP projects and it should not be included in AWIA 2020 legislation. The Everglades Foundation is opposed to any efforts to do so.

Sincerely,



Eric Elkenberg
Chief Executive Officer

cc: Senator Marco Rubio
Senator Rick Scott
Governor Ron DeSantis
The Honorable R.D. James, Assistant Secretary of the Army – Civil Works
Lieutenant General Todd Semonite, Commanding General and Chief of Engineers, U.S. Army Corps of Engineers
Major General Scott Spellmon, U.S. Army Corps of Engineers
Colonel Andrew Kelly, District Commander, U.S. Army Corps of Engineers
Chauncey Goss, Governing Board Chair, South Florida Water Management District
Secretary Noah Valenstein, Florida Department of Environmental Protection
Drew Bartlett, Executive Director, South Florida Water Management District
Dr. Timothy R. Petty, Assistant Secretary for Water and Science, U.S. Dept. of the Interior
Adam Gelber, Director, Office of Everglades Restoration Initiatives, U.S. Dept. of Interior