



13081 MILITARY TRAIL
DELRAY BEACH, FLORIDA 33484-1105

Board of Supervisors
James M. Alderman
Stephen Bedner
Jeffrey P. Phipps, Sr.
Harry Raucher
John I. Whitworth III
Executive Director
Tommy B. Strowd, P.E.
Attorney
Mark A. Perry, P.A.

May 13, 2020

Chauncey Goss
Governing Board Chairman
South Florida Water Management District
3301 Gun Club Rd.
West Palm Beach, Florida 33301

**Subject: Public Comment - Agenda Item #7; General Public Comment –
CERP Savings Clause**

Dear Chairman Goss:

As you are aware the U.S. Army Corps of Engineers (USACE) is developing a new Regulation Schedule for Lake Okeechobee, known as the Lake Okeechobee System Operating Manual (LOSOM). The purpose of this schedule is to determine new operational criteria that will take into consideration the significant improvements to the structural integrity of the Herbert Hoover Dike by the USACE.

One recent point of controversy centers on the applicability of the 'Savings Clause' to Lake Okeechobee. The Savings Clause was an integral part of the 2000 Congressional Authorization for the Comprehensive Everglades Restoration Plan (CERP). There are several reasons that point to the relevance of the Savings Clause in this instance.

Lake Okeechobee has often been referred to as the "Liquid Heart of South Florida", primarily because its hydrologic influence is felt across much of the southern portion of the State. In the natural hydrologic system, the Lake spilled over its southern shoreline and contributed large quantities of water to the expansive Everglades, which slowly and consistently flowed through the shallow marshes into Florida Bay. In today's hydrologic system, Lake Okeechobee has been developed over many decades into a massive water reservoir by the Central and Southern Florida Project (C&SF Project). The Lake now serves both flood control and a wide range of water resource needs. These include the ecology of the Lake itself, the Everglades, coastal estuaries, agricultural operations, tribal interests, navigation, and urban constituencies across South Florida. The Lake has enormous influence over this broad geographic area, and therefore cannot be effectively separated from the hydrologic function of the C&SF Project at large.

The anticipated development schedule for LOSOM coincides with the construction schedules for the C-43 and C-44 CERP reservoirs. It is understood that these new CERP facilities will be in place and functional around the time that LOSOM is implemented. It is uncontested that the

new regional water created by these reservoirs and the associated water storage capacities will have an influence on Lake Okeechobee operations, and vice versa. It should be obvious that the operations of these new CERP facilities must be coordinated with the operation of Lake Okeechobee to achieve the regional benefits anticipated in CERP.

A System-wide Operating Manual (SOM) was originally envisioned in the proposed implementation of CERP through a series of Programmatic Regulations developed by the USACE in 2003. Prior to this, the documentation of the C&SF Project operations was divided into sub-regional Master Water Control Manuals, which established and documented the operations of individual C&SF Project components. The purpose of the System wide Operating Manual was to coordinate the regional 'system-wide' operations with the CERP project-level operating plans; thus coordinating the operations of each individual project in a regional context so as to achieve the regional hydrologic benefits anticipated by CERP. In the context of LOSOM, the System wide plan should then coordinate operations of Lake Okeechobee with the project level operations of the C-43 and C-44 reservoirs.

Since LOSOM coordinates the operations of the Lake with the reservoirs associated with the coastal estuaries, it must consider regional limitations established by CERP as it assures the regional benefits are properly accrued. In this context, the CERP Savings Clause must be addressed in LOSOM.

Senate Bill 2797 of the "RESTORING THE EVERGLADES, AN AMERICAN LEGACY ACT", July 2000, defined the Savings Clause provisions:

"Savings Clause. Subsection (h)(5) requires the Secretary to ensure that implementation of the Plan does not cause substantial adverse impacts on existing legal uses of water, including water allocated to the Seminole Tribe of Florida as codified under Federal and State law, the Miccosukee Tribe of Indians of Florida, water for Everglades National Park, water for the preservation of fish and wildlife in the natural system, agricultural water supply and other legal uses as of the date of enactment of this bill."

It further stated...

"Subsection (h)(5)(A) addresses the rights of existing legal water users. The subsection states that the Secretary shall ensure that the implementation of the Plan, including physical or operational modifications to the C&SF Project, does not cause significant adverse impact on existing legal water users."

...and finally,...

"Subsection (h)(5)(B) establishes a condition upon project implementation that prohibits elimination of existing legal sources of water due to Plan implementation until a new source of water supply of comparable quantity and quality is available to replace the water to be lost."

Clearly, these protections were intended to avoid future impacts to the broad range of beneficial water uses that were in place at the time of CERP authorization. Since 1915, the Lake Worth Drainage District has managed a sub-regional water resource management system located in southeastern Palm Beach County for the benefit of flood control and water supply. Like most urban and agricultural communities along the Lower East Coast of Florida, we rely in part on Lake Okeechobee water as a critical back-up during extreme dry periods or droughts. The Savings Clause protections are an important factor in the future availability of water for urban, agricultural, and environmental water needs as CERP is implemented over the coming years.

Sincerely,

A handwritten signature in blue ink, appearing to read 'T. Strowd', with a horizontal line drawn through the middle of the letters.

Tommy B. Strowd, P.E.
Executive Director / District Engineer
LAKE WORTH DRAINAGE DISTRICT

- c. Drew Bartlett, Executive Director, SFWMD
SFWMD Governing Board Members
Col. Andrew Kelley, U.S. Army Corps of Engineers, Jacksonville District
John Mitnick, P.E., SFWMD