



**County Administration**

P.O. Box 1989  
West Palm Beach, FL 33402-1989  
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**Palm Beach County  
Board of County  
Commissioners**

Dave Kerner, Mayor  
Robert S. Weinroth, Vice Mayor

Hal R. Valeche  
Gregg K. Weiss  
Mary Lou Berger  
Melissa McKinlay  
Mack Bernard

**County Administrator**

Verdenia C. Baker

*"An Equal Opportunity  
Affirmative Action Employer"*

Official Electronic Letterhead

July 30, 2020

**Via Email: 2020LORSHABEAComments@usace.army.mil**

Angela E. Dunn  
Chief, Environmental Branch  
U.S. Army Corps of Engineers, Jacksonville District  
701 San Marco Boulevard  
Jacksonville, Florida 32207-8175

Dear Ms. Dunn,

**Subject: Palm Beach County Comments on the 2020 Planned  
Deviation to the Water Control Plan for Lake Okeechobee  
and Everglades Agricultural Area (LORS2008)  
Supplemental Environmental Assessment and Proposed  
Finding of No Significant Impact**

Palm Beach County (County), like many South Florida communities, relies on the operations of Lake Okeechobee, the Everglades Agricultural Area and the Central and South Florida (C&SF) Project for Flood Control and Other Purposes to protect its citizens from flooding and to protect public water supply from depletion and salt water intrusion. Lake Okeechobee is essential and interconnected to communities, businesses, public water supplies, and ecosystems. As such, County residents, taxpayers, and visitors depend on healthy and predictable lake levels to sustain a robust and diverse economy. Today, Palm Beach County is submitting the attached comments to the U.S. Army Corps of Engineers (Corps) on the subject document, which was made available on July 1, 2020.

The proposed 2020 Planned Deviation to Lake Okeechobee operations has the potential to result in significant and long-lasting effects to the environment, water resources and economy of the County. As such, changes to Lake Okeechobee operations need to be coordinated with affected stakeholders, carefully considered and evaluated appropriately. Unfortunately, there were no public meetings, no opportunities for stakeholder participation and no formal or informal engagement or coordination with County stakeholders associated with Lake Okeechobee deviations initiated by the Corps during the more than 9 months between the comment deadline for the 2019 Planned Deviation (September 20, 2019) and the Notice of Availability for the 2020 Planned Deviation (July 1, 2020).



Ms. Angela E. Dunn  
July 30, 2020  
Page 2 of 2

While the County understands the need to mitigate and address impacts from harmful algae blooms, it is imperative that the Corps follows the National Environmental Policy Act process and adheres to adopted regulations. The broad operational discretion embedded within the 2020 Planned Deviation and the resultant lack of predictable environmental impacts results in a regional water management experiment with unknown consequences.

Given the level of analysis necessary to move forward with the proposed modifications to the Water Control Plan for Lake Okeechobee and Everglades Agricultural Area (LORS2008), the County recommends that the 2020 Planned Deviation concepts be evaluated as part of the ongoing Lake Okeechobee System Operating Manual (LOSOM) process and not as a stand-alone Supplemental EA to avoid further distracting resources from the LOSOM process.

Sincerely,

Jeremy McBryan, PE, CFM  
County Water Resources Manager

Attachment

cc: Colonel Andrew Kelly, U.S. Army Corps of Engineers  
Lt. Colonel Todd Polk, U.S. Army Corps of Engineers  
Col. Jason Kelly, U.S. Army Corps of Engineers  
Major General Scott Spellmon, U.S. Army Corps of Engineers  
Ryan Fisher, Office of the Assistant Secretary of the Army for Civil Works  
Gib Owen, Office of the Assistant Secretary of the Army for Civil Works  
Savannah Lacy, U.S. Army Corps of Engineers  
Melissa Nasuti, U.S. Army Corps of Engineers  
Drew Bartlett, South Florida Water Management District  
Mayor & Members, Palm Beach County Board of County Commissioners  
Members & Alternates, Palm Beach County Water Resources Task Force  
Verdenia C. Baker, County Administrator, Palm Beach County  
Patrick Rutter, Assistant County Administrator, Palm Beach County

Comments on the  
Supplemental Environmental Assessment and  
Proposed Finding of No Significant Impact for  
the 2020 Planned Deviation to the Water  
Control Plan for Lake Okeechobee and  
Everglades Agricultural Area (LORS2008)

**Submitted to:**

Angela E. Dunn

U.S. Army Corps of Engineers

Jacksonville District

701 San Marco Boulevard, Jacksonville, FL 32207-8175

2020LORSHABEAComments@usace.army.mil

**Submitted by:**

Palm Beach County



**Prepared by:**

Jeremy McBryan, PE, CFM

County Water Resources Manager

Palm Beach County

301 North Olive Avenue, 11<sup>th</sup> Floor

West Palm Beach, Florida 33401

[jmcbryan@pbcgov.org](mailto:jmcbryan@pbcgov.org)

561-355-4600

July 30, 2020

## Introduction

This document provides Palm Beach County (County) comments on the U.S. Army Corps of Engineers' (Corps) Supplemental Environmental Assessment (EA) and Proposed Finding of No Significant Impact (FONSI) for the 2020 Planned Deviation to the Water Control Plan for Lake Okeechobee and Everglades Agricultural Area (LORS2008), made available for public comment on July 1, 2020.

## Lake Operations Significantly Affect Palm Beach County

Palm Beach County, with more than 1.4 million residents, is the third most populous county in Florida with an economy sustained by tourism, agriculture, and real estate development. The County is a leading tourist destination for visitors from around the world and leads the state in agricultural productivity. In fact, Palm Beach County is one of the top 10 agricultural producing counties in the nation with over \$2.5 billion in economic activity. Palm Beach County residents, taxpayers, and visitors depend on healthy and predictable levels in Lake Okeechobee to sustain a robust and diverse economy. Lake Okeechobee is integral to our community and the Corps' management of the Lake affects environmental restoration, water supply, navigation, agriculture, tourism, and recreation priorities in the County and throughout South Florida.

Palm Beach County is committed to protecting the interests of its residents and the natural environment in which they live and work. The County, in collaboration with state and local partners, has invested approximately \$500 million in the acquisition, restoration and management of 32,000 acres of natural areas and approximately \$90 million to restore the Lake Worth Lagoon Estuary. In addition, since October 2014, the County has implemented over \$220 million in capital improvements to its water utilities infrastructure, \$45 million of this in the Glades region communities near Lake Okeechobee. The County's forward-thinking approach to water resources is further demonstrated by aggressive implementation of reclaimed water infrastructure which reduces demands on the surficial aquifer.

On March 12, 2019, the Palm Beach County Board of County Commissioners adopted Resolution 2019-0379 (see Appendix A) opposing drastically lowering Lake Okeechobee to levels not supported by sound science, outlining concerns, communicating priorities, and providing recommendations on Lake Okeechobee operations, in anticipation of the Corps' re-evaluation of Lake operations, referred to as the Lake Okeechobee System Operating Manual (LOSOM). Many of the same issues addressed by the resolution also apply to the proposed deviation.

## Supplemental Environmental Assessment is Insufficient

The Corps' management of Lake Okeechobee is an ongoing federal action that significantly affects the quality of the environment. The National Environmental Policy Act (NEPA) therefore requires the Corps to analyze its operations through the Environmental Impact Statement (EIS) process. The Corps last prepared an EIS for Lake Okeechobee operations in 2007, prior to adopting the Lake management plan from which the Corps now proposes to deviate (LORS2008).

Because the Corps' lake management is an ongoing federal action, federal law imposes a continuing duty on the Corps to supplement its existing 2007 EIS in two circumstances, both of which apply to the current proposal. The Corps' Supplemental EA is legally insufficient when the law requires a Supplemental EIS.

First, the Corps must prepare a Supplemental EIS if the agency proposes a substantial change in its ongoing federal action.<sup>1</sup> A proposed change in Lake Okeechobee operations is substantial as a matter of law if the proposed operation is not within the spectrum of operations discussed in a prior EIS.<sup>2</sup> With the proposed 2020 Planned Deviation, the Corps would not be operating the lake in the manner which was intended, i.e., in accordance with LORS2008. If it were, why would there be a need for this deviation?

Second, the Corps must prepare a Supplemental EIS if there are significant new circumstances or information relevant to environmental concerns and bearing on the ongoing federal action.<sup>3</sup> New circumstances or information are significant as a matter of law if they provide "a seriously different picture of the environmental landscape" as compared to that envisioned in the original EIS.<sup>4</sup> Here, while we understand that the Corps is proposing to operate Lake Okeechobee to mitigate the impacts of Harmful Algal Blooms (HABs), operating Lake Okeechobee in a manner intended to affect HABs was not analyzed in the 2007 EIS for LORS2008. If the proposed deviation had been analyzed as part of that process, then a Supplemental EA may have been appropriate here, but it was not. New circumstances and information exist and operational changes that are of environmental concern are being proposed. Consequently, the Corps must prepare a Supplemental EIS for its ongoing management of Lake Okeechobee.

The required analysis through the NEPA process needs to consider effects on all project purposes. The Supplemental EA for the proposed 2020 Planned Deviation does not do this. The Corps cannot propose to implement operational changes and claim minimal or no impacts are intended to the competing project purposes without having qualitatively discussed this proposed deviation within the spectrum of alternatives. The Corps must demonstrate how this experiment with the public's water for both ecological and supply needs will be affected by completing a Supplemental EIS to the 2007 EIS for LORS2008.

## Lack of Transparency Suppresses Stakeholder Participation

The County understands the desire to attempt to mitigate the impact of HABs through Lake Okeechobee operations, but the Corps must do so in accordance with the law. Federal law and good governance require the Corps to take a "hard look" at the potential environmental

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<sup>1</sup> 40 C.F.R. § 1502.9(c)(1)(i).

<sup>2</sup> In re Operation of the Missouri River System Litigation, 516 F.3d 688, 693 (8th Cir. 2008) (citing Dubois v. U.S. Dep't of Agriculture, 102 F.3d 1273, 1292 (1st Cir. 1996)).

<sup>3</sup> 40 C.F.R. § 1502.9(c)(1)(ii).

<sup>4</sup> City of Olmsted Falls v. F.A.A., 292 F.3d 261, 274 (D.C. Cir. 2002).

consequences of Lake Okeechobee operations, and that it do so in a transparent manner that involves all stakeholders.

During the more than 9 months between the comment deadline for the 2019 Planned Deviation (September 20, 2019) and the Notice of Availability for the 2020 Planned Deviation (July 1, 2020), there were no public meetings, no opportunities for stakeholder participation and no formal or informal engagement or coordination with County stakeholders associated with Lake Okeechobee deviations initiated by the Corps.

The 2020 Planned Deviation, which is proposed to be in place until LOSOM is finalized in 2022, circumvents the necessary and deliberate EIS planning process and suppresses critical input of stakeholders and affected parties. As evidenced by the number of comments received on the 2019 Planned Deviation, implementing a deviation to Lake Okeechobee operations is highly controversial and needs to be carefully considered.

## Comment Period is Inadequate for Meaningful Review

The Corps developed LORS2008—itsself purported to be an interim operational protocol—after several years of careful scientific analysis and numerous opportunities for stakeholder participation. In contrast stands the rushed comment period for the Corps’ current proposal. While the federal EA process can never substitute for the EIS process required by law for operation of a resource as important as Lake Okeechobee, the 30-day period provided for public review of the Corps’ Supplemental EA and Proposed FONSI for the 2020 Planned Deviation to LORS2008 is wholly inadequate.

A 30-day public review and comment period for the 2020 Planned Deviation Supplemental EA and Proposed FONSI’s 2,295 pages of information is too short to ensure adequate public engagement and enable meaningful input from stakeholders and affected parties. Additional time is needed to understand the complexities of the proposed deviation and any potential water supply problems, ecological consequences, and other impacts to the region. As such, on behalf of the Board of County Commissioners and the more than 1.4 million residents of the County, the County respectfully requested that the 30-day comment period be extended to a minimum of 60 days via a letter dated July 17, 2020. Then on July 27, 2020 the County received an email from Ms. Melissa Nasuti stating that the Corps would not be extending the public comment period (see Appendix B).

Based on numerous public statements made by the Corps including at the Corps’ July 21, 2020 webinar on the 2020 Planned Deviation, the Corps does not intend to implement the 2020 Planned Deviation in 2020. Since no emergency exists, an additional 30 days to review the revised and supplemental materials, including modeling information and assumptions that were not provided in the 2019 Planned Deviation, and the updated operational strategies was a reasonable request.

## Lake Operations Will be Unpredictable for the Foreseeable Future Due to Vague Deviation Conditions

Increased operational flexibility to avoid and minimize risk related to HABs is reasonable in concept. Typically, operational deviations should be well-defined and temporary. However, the proposed 2020 Planned Deviation includes such broad flexibility that it will result in the Lake being operated with little to no predictability for the foreseeable future. The broad discretion makes it difficult for the County to decipher exactly how and when deviation operations will be initiated and stopped, exactly what operations will occur, and what environmental impacts will result. In essence, the conditions to utilize HAB operations provided on page 2-2 of the Supplemental EA are so broad that they effectively result in not having conditions at all and would allow the Corps to implement a deviation at any time and for any duration.

It seems the Corps' definition of HABs has expanded over time as part of the LOSOM process and again in the 2020 Planned Deviation to include more and more types of conditions that would be considered HABs. It was clear from the July 29, 2020 Blue-Green Algae Task Force meeting that there remains uncertainty regarding correlations between blue-green algae, chlorophyll-a, HABs, and the presence of toxins, etc. and that chlorophyll-a should clearly not be used as an indicator or surrogate for the presence of toxins. Due to the lack of clarity and consistency in HAB definitions, the County has the following questions:

1. How are HABs determined/defined?
2. Who makes the determination that HABs are occurring?
3. If HABs are determined via visual inspection, what metrics are used?
4. If HABs are determined to be present based on satellite imagery, how is this information ground-truthed?
5. If HABs are determined to be present based on analysis from a water quality laboratory, what metrics/thresholds are used? Are HABs based on a specific toxicity level or some other parameter?

One of the conditions that is being proposed to initiate deviation operations is if an HAB is anticipated to occur. Yet, as acknowledged by the Corps in the comment response matrix for comments received on the 2019 LORS Planned Deviation Draft EA, "...there is no reliable and accepted predictive tool for algal blooms." The Supplement EA states on page 2-2 that "[t]he Corps will consult with partners on the latest science and tools predicting potential and/or indicating actual HAB presence on the Lake and Estuaries." While a few unproven HAB forecast tools are mentioned and several other references to predictive tools that have not yet been developed or validated are provided in the deviation documentation, it does not seem prudent to rely on unreliable tools or other tools that do not yet exist to initiate major operational changes to South Florida's regional water management system.

## Deviation is a Regional Water Management Experiment with Unpredictable and Unknown Consequences

The performance, outcomes, challenges, conclusions and environmental effects of this planned deviation should be identified and evaluated prior to being implemented. The Corps' acknowledged lack of certainty in predicting and evaluating the environmental effects clearly demonstrates that the 2020 Planned Deviation is a regional water management experiment with unknown consequences. Below are specific examples of the Corps acknowledgement of uncertain environmental effects:

- The Proposed FONSI states "Once action is taken...the Corps will evaluate the performance of the strategy, identify outcomes, challenges, and conclusions in a memo to the South Atlantic Division Commander and may request changes to or an extension of the deviation based on that analysis."
- In the comment response matrix, the Corps states "'These [deviation issues] will be analyzed and the Corps will determine if the operations were successful at meeting the objectives set forth in the revised supplemental EA. Due to the novel nature of the deviation and its objectives within the C&SF Project, it is important to evaluate the success of this new concept regularly and keep the ability to terminate this deviation at any time."

## Environmental Impacts Analysis is Deficient

The possible effects of the proposed deviation on the human environment are highly uncertain and involve unique or unknown risks. The Corps did not provide sufficient information or analyses to understand, assess, manage or communicate the risks or uncertainties related to the proposed deviation on the Lake Worth Lagoon Estuary, Everglades Stormwater Treatment Areas (STAs) or saltwater intrusion.

## Impacts to the Lake Worth Lagoon Estuary Not Evaluated

Palm Beach County, in collaboration with state and local partners, has invested approximately \$90 million to restore the Lake Worth Lagoon Estuary, including the construction of mangrove islands, living shorelines, and artificial reefs. The County is concerned that the Corps conducted no technical analysis to assist in understanding the potential consequences of the 2020 Planned Deviation on the Lake Worth Lagoon Estuary.

The Corps' 2020 Planned Deviation to Lake Okeechobee operations is focused on releases to the St. Lucie and Caloosahatchee estuaries and states that *advanced* releases as part of the deviation will not be made to the Lake Worth Lagoon Estuary, nonetheless, LORS2008 does allow releases to the Lake Worth Lagoon Estuary. And historical operational and flow data show that Lake Okeechobee releases to both the West Palm Beach Canal (via Structure S-352) and the L-8 Canal (via S-271 [formerly known as C-10A]) are conveyed to the Lake Worth Lagoon Estuary via the C-51 Canal. Therefore, any deviation to LORS2008 must evaluate impacts to the Lake Worth Lagoon Estuary, which is part of the affected environment. However, the 2020 Planned Deviation



provides no such evaluation. More analysis is necessary to understand the consequences of releasing less Lake Okeechobee water elsewhere in the system on the Lake Worth Lagoon Estuary.

### Impacts of Saltwater Intrusion Not Evaluated

Lake Okeechobee is essential to protecting the region's water supply infrastructure from saltwater intrusion by providing a source of freshwater to prevent the migration of saltwater into coastal wellfields. The County is concerned about Lake Okeechobee operations that could result in increased risk of saltwater intrusion into coastal wellfields which would cause irreversible damage to freshwater supplies, affect the health and safety of residents, and result in the need for massive alternative water supply infrastructure investments. The Supplemental EA does not include any performance measures to evaluate saltwater intrusion. The Corps should evaluate any proposed changes to Lake Okeechobee operations with performance measures that ensure improved levels of protection against saltwater intrusion and maintain the hydraulic gradient necessary to prevent saltwater intrusion into coastal wellfields.

### Actual Lake Okeechobee Releases to Stormwater Treatment Areas Are Much Higher Than Deviation Assumptions

The Everglades STAs are currently designed to receive an annual average volume of approximately 60,000 acre-feet per year of Lake Okeechobee regulatory releases. However, per data obtained from the South Florida Water Management District, from Water Year (WY) 2014 (May 1, 2013 – April 30, 2014) to WY2020, total annual Lake releases south to the STAs have ranged from a low of 153,000 acre-feet in WY2020 to a high of 586,000 acre-feet in WY2015 for an average of 298,000 acre-feet, far beyond the 60,000 acre-feet that LORS2008 and the 2020 Planned Deviation assume. This recent operational history indicates that the assumptions related to Lake Okeechobee releases to Everglades STA in the 2020 Planned Deviation are not appropriate.

### Conclusion

Lake Okeechobee is a critical component in achieving environmental restoration, water supply, agriculture, tourism, and recreation objectives in South Florida. The Lake is essential and interconnected to communities, businesses, public water supplies, and ecosystems in Palm Beach, Broward, and Miami-Dade Counties as well as many others. Palm Beach County residents, taxpayers and visitors depend on healthy and predictable lake levels to sustain a robust and diverse economy. Palm Beach County looks forward to receiving additional information from the Corps to address the proposal's deficiencies. Given the level of analysis necessary to move forward with this proposed deviation, it is recommended that this deviation be analyzed as part of the LOSOM process and not as a stand-alone Supplemental EA which further distracts and shifts resources from LOSOM.

## Appendix A:

# Palm Beach County Board of County Commissioners Resolution 2019-0379

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ON THE RE-EVALUATION OF LAKE OKEECHOBEE OPERATIONS BY THE U.S. ARMY CORPS OF ENGINEERS PURSUANT TO THE NATIONAL ENVIRONMENTAL POLICY ACT ASSESSMENT FOR THE LAKE OKEECHOBEE SYSTEM OPERATING MANUAL**

**WHEREAS**, Lake Okeechobee is the liquid heart of an integrated regional water management system and is essential and interconnected to communities, businesses, public water supply utilities and ecosystems throughout Palm Beach County; and

**WHEREAS**, Lake Okeechobee is an integral component of the Comprehensive Everglades Restoration Plan (CERP) and is critical to meeting the environmental restoration and water supply needs of South Florida; and

**WHEREAS**, Lake Okeechobee is essential to protecting the region's water supply infrastructure from saltwater intrusion by providing a source of freshwater to prevent the migration of saltwater into coastal wellfields; and

**WHEREAS**, Lake Okeechobee's authorized project purposes include flood control, water supply, recreation, navigation, environmental effects to fish and wildlife, and cultural and recreational resources; and

**WHEREAS**, Section 1106 of the 2018 Water Resources Development Act (WRDA) directs the Secretary of the Army to expedite completion of the Lake Okeechobee regulation schedule to coincide with completion of the Herbert Hoover Dike project, and may include all relevant aspects of the CERP; and

**WHEREAS**, in January 2019, the County received notice from the U.S. Army Corps of Engineers (Corps) that, in accordance with Section 1106 of the 2018 WRDA, the Corps is beginning preparation of a National Environmental Policy Act (NEPA) assessment for the Lake Okeechobee System Operations Manual (LOSOM), which is to re-evaluate and define operations for the Lake Okeechobee regulation schedule that takes into account nearly complete additional infrastructure which will soon be operational components of the water management system; and

**WHEREAS**, rehabilitation activities on Lake Okeechobee's Herbert Hoover Dike by the Corps began in 2001 and are expected to be complete by 2022; and

**WHEREAS**, the Lake Okeechobee Regulation Schedule of 2008 (LORS08) was implemented as an interim measure to protect the public from the risk of catastrophic failure of the Herbert Hoover Dike; and

**WHEREAS**, Palm Beach County, in partnership with state and local partners, has invested over \$500 million in the acquisition, restoration and management of approximately 32,000 acres of natural areas and invested approximately \$88 million to restore the Lake Worth Lagoon; and

**WHEREAS**, Palm Beach County wishes to provide direction as to which measures that Palm Beach County supports and opposes in the Lake Okeechobee operations re-evaluation process and the resultant LOSOM.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that the Board hereby *supports* the following as it relates to the re-evaluation of Lake Okeechobee operations by the Corps:

1. A science-based evaluation that is transparent and acknowledges and balances all congressionally-authorized purposes of Lake Okeechobee operations; and
2. Performance measures that appropriately and accurately characterize impacts to all communities as it relates to water supply, the environment, and the economy; and
3. The incorporation of data and methods to ensure proposed operations improve lake ecology, protect water supplies and are robust and resilient to expected climatic variability; and

4. The implementation of water storage and water quality treatment projects in Lake Okeechobee tributary basins north of the Lake; and
5. Lake Okeechobee operations that reduce flood risk and flood insurance premiums for residents and businesses in the Glades communities located southeast of Lake Okeechobee; and
6. Lake Okeechobee operations that assist in achieving restoration flows and other key ecosystem goals, including performance measures developed by CERP's Restoration Coordination & Verification (RECOVER) program; and
7. The avoidance and/or minimization of Lake Okeechobee discharges to the Lake Worth Lagoon and the Loxahatchee River; and
8. Reductions in water use restrictions and cutbacks on public water utilities and existing permitted users, as compared to those which occur under LORS08.

**AND BE IT FURTHER RESOLVED** that the Board *opposes* the following as it relates to the re-evaluation of Lake Okeechobee operations by the Corps:

1. Drastically lowering Lake Okeechobee to levels not supported by sound science (e.g. 10.5 feet) which would induce drought conditions, impact the ability to deliver water to critical ecosystems, and result in significant environmental damage; and
2. Lake Okeechobee operations that result in increased risk of saltwater intrusion into coastal wellfields which would cause irreversible damage to freshwater supplies, affect the health and safety of residents, and result in the need for massive alternative water supply infrastructure investments; and
3. Lake Okeechobee operations that result in restrictions on recreational and commercial fishing, which would impact small businesses such as marinas, fishing guide services and the hospitality industry.

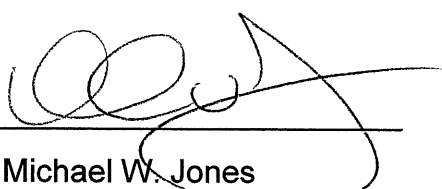
This Resolution shall become effective immediately upon its adoption.

The foregoing resolution was offered by Commissioner McKinlay, who moved its adoption. The motion was seconded by Commissioner Weiss, and upon being put to a vote, the vote was as follows:


MACK BERNARD, Mayor	-	Aye
DAVID KERNER, Vice Mayor	-	Aye
COMMISSIONER HAL R. VALECHE	-	Aye
COMMISSIONER GREGG K. WEISS	-	Aye
COMMISSIONER ROBERT S. WEINROTH	-	Aye
COMMISSIONER MARY LOU BERGER	-	Aye
COMMISSIONER MELISSA MCKINLAY	-	Aye

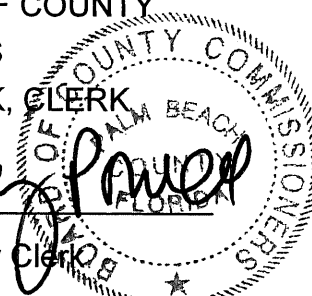
The Mayor thereupon declared the resolution duly passed and adopted on this 12th day of March, 2019.

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY:   
Michael W. Jones  
Senior Assistant County Attorney

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS  
SHARON R. BOCK, CLERK

BY:   
Deputy Clerk



## Appendix B:

Palm Beach County's 2020 Planned Deviation  
Comment Period Extension Request dated July 17,  
2020 and the U.S. Army Corps of Engineers' Response  
dated July 27, 2020



**County Administration**

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**County Administrator**

Verdenia C. Baker

*"An Equal Opportunity  
Affirmative Action Employer"*

Official Electronic Letterhead

July 17, 2020

**Via Email: 2020LORSHABEAComments@usace.army.mil**

Angela E. Dunn  
Chief, Environmental Branch  
U.S. Army Corps of Engineers, Jacksonville District  
701 San Marco Boulevard  
Jacksonville, Florida 32207-8175

Dear Ms. Dunn,

**Subject: 2020 Planned Deviation to the Water Control Plan for  
Lake Okeechobee and Everglades Agricultural Area  
(LORS2008)**

Lake Okeechobee is a critical component in achieving environmental restoration, water supply, navigation, agriculture, tourism and recreation objectives in South Florida. It is essential and interconnected to communities, businesses, public water supplies, and ecosystems. As such, Palm Beach County (County) residents, taxpayers, and visitors depend on healthy and predictable lake levels to sustain a robust and diverse economy. A deviation to Lake Okeechobee operations has the potential to significantly affect the environment, water resources and economy of the County; therefore, any proposed deviation needs to be coordinated with affected stakeholders and carefully considered.

A 30-day review and comment period for a Draft Supplemental Environmental Assessment (EA) and Proposed Finding of No Significant Impact (FONSI) for a resource as important as Lake Okeechobee is wholly inadequate. Further, there have been no public meetings, no opportunities for stakeholder participation and no formal or informal engagement or coordination with County stakeholders associated with Lake Okeechobee deviations initiated by the U.S. Army Corps of Engineers during the more than 9 months between the comment deadline for the 2019 Planned Deviation (September 20, 2019) and the Notice of Availability for the 2020 Planned Deviation (July 1, 2020).

On behalf of the Board of County Commissioners and the more than 1.4 million residents of Palm Beach County, I respectfully request that the 30-day comment period be extended to a minimum of 60 days. Additional time



Ms. Angela E. Dunn  
July 17, 2020  
Page 2 of 2

is needed to understand the complexities of the proposed 2020 Planned Deviation, review the information provided in the 2,295 pages of information associated with the Draft Supplemental EA and Proposed FONSI, and any potential water supply problems, ecological consequences to the Lake Worth Lagoon, and impacts to the region's economy.

Sincerely,

A handwritten signature in black ink that reads "Jeremy McBryan" followed by a horizontal line.

Jeremy McBryan, PE, CFM  
County Water Resources Manager

cc: Patrick Rutter, Assistant County Administrator

---

From: Nasuti, Melissa A CIV USARMY CESAJ (USA) <Melissa.A.Nasuti@usace.army.mil>  
Sent: Monday, July 27, 2020 1:00 PM  
To: Jeremy McBryan <JMcBryan@pbcgov.org>  
Cc: Dunn, Angela E CIV USARMY CESAJ (USA) <Angela.E.Dunn@usace.army.mil>  
Subject: RE: 2020 Planned Deviation to LORS2008 - Request for Additional Time for Public Comment

Good Afternoon, The Corps has considered the request to extend the public comment period for the revised supplemental EA. The 2019 LORS Planned Draft EA was provided to the public for a total duration of 45 days in August of last year. The proposed action in the revised supplemental EA is consistent with the intent of the 2019 LORS Planned Deviation Draft EA. The operational strategy has been amended from the 2019 LORS Planned Deviation Draft EA by establishing the concept of a credit limit for each year that the planned deviation would be implemented based on projected forecasts for that year, to address concerns related to below average dry conditions (i.e. low lake levels) following advanced releases. Additionally, advanced release zones have been added to further refine at what lake levels would advanced releases be considered, which helps ensure large releases are not made too early or at too low of lake levels. Modeling with the LOOPS has been conducted in support of the revised supplemental EAs described in Section 4 to further evaluate potential environmental effects of the planned deviation. Modeling shows that potential effects of the proposed action on stages within Lake Okeechobee are expected to be similar to LORS 2008. Significant adverse effects to the human environment are not expected relative to the No Action Alternative (LORS 2008). Given that the proposed action has not significantly changed from that presented in the 2019 LORS Planned Deviation Draft EA and a teleconference/webinar was held on July 21, 2020 to inform the public of the operational considerations and modeling conducted to support the environmental effects evaluation, the Corps will not be extending the public comment period. All comments should be submitted by July 30, 2020, consistent with the original request date.

Thank you,

Melissa Nasuti  
U.S. Army Corps of Engineers  
Planning and Policy Division Environmental Branch  
Restoration and Resources Section  
E: Melissa.A.Nasuti@usace.army.mil  
P: 904-232-1368