

July 30, 2020

VIA EMAIL

United States Army Corps of Engineers, Jacksonville District  
Attn: Col. Andrew Kelly, Commander and District Engineer  
701 San Marco Boulevard  
Jacksonville, Florida 32232-0019

Email: 2020LORSHABEAComments@usace.army.mil

Re: The Nature Conservancy, Florida Chapter Comments on the Draft Supplemental Environmental Assessment and Proposed Finding of No Significant Impact for the 2020 Planned Deviation to the Water Control Plan for the Lake Okeechobee and the Everglades Agricultural Area (LORS 2008) Glades, Hendry, Martin, Okeechobee and Palm Beach counties ("Supplemental Draft EA/FONSI")

Dear Colonel Kelly:

The Nature Conservancy, Florida Chapter (TNC) appreciates the opportunity to provide input on the Supplemental Draft EA/FONSI for the planned deviation to LORS 2008 proposed to address issues with harmful algal blooms in Lake Okeechobee and the Caloosahatchee and St. Lucie Estuaries ("Estuaries"). Our organization has worked in the Northern Everglades since 1972 on land protection and management initiatives, including providing the donation of property that established the U.S. Fish and Wildlife Service Everglades Headwaters National Wildlife Refuge. TNC owns and manages over 30,536 acres in the Northern Everglades, including our 11,500 -acre Disney Wilderness Preserve. Our historic Everglades work also involved facilitating the Talisman acquisition of 53,500 acres south of Lake Okeechobee, including the land upon which the Everglades Agricultural Area reservoir will be constructed.

Our comments on the Supplemental Draft EA/FONSI mirror many of the comments we made in our September 19, 2019 comments on the 2019 Planned Deviation to the Water Control Plan for Lake Okeechobee and Everglades Agricultural Area (LORS 2008) draft EA and Proposed FONSI. We continue to recognize the imperative of protecting the Estuaries and Lake Okeechobee's water resources and the people who have suffered devastating impacts to their health and livelihoods from the harmful algal blooms ("HAB"). We recognize that there is tremendous pressure to find quick solutions to this problem which has been decades in the making. TNC continues to be concerned that in this attempt to solve a complex problem quickly through a schedule deviation, the U.S. Army Corps of Engineers (USACE) is not properly considering three key factors: 1) application of best available science; 2) system-wide impacts to the Everglades ecosystem; and 3) stakeholder inclusion and transparency. Our concerns with each factor are identified below.

### **Application of Best Available Science**

One of TNC's goals, as an international environmental organization, is to advocate for decisions based on sound science. The science supporting LORS 2008 took years to develop and was subject to intensive scrutiny through the National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) process. This multi-year effort utilized hydrologic modeling that evaluated operational flexibility and system wide analysis to test the impacts of alternative operating protocols. The USACE is now proposing significant, potentially long-term shifts in its operating protocols for Lake Okeechobee without utilizing the sound scientific approaches and intensive modeling needed to make these decisions. Each of our concerns regarding the USACE scientific approach is addressed below.

- a) LOOPS Modeling - LOOPS is a screening-level spreadsheet model developed by SFWMD that is a useful tool for quickly testing a broad range of ideas for operating Lake Okeechobee. However, LOOPS is not the best available tool for performing a comprehensive evaluation of the impacts of changes to the regulation schedule for the preferred alternative. Additionally, we are concerned that USACE only modeled the preferred alternative. Consequently, we cannot determine how the preferred alternative's performance compares to the other alternatives identified in the Supplemental Draft EA/FONSI.
- b) Performance Measures. In the last few months, the Restoration Coordination and Verification team (RECOVER), which is composed of scientists whose mission is to develop scientific and technical information to support the Comprehensive Everglades Restoration Plan, adopted revised performance measures for Lake Okeechobee Lake Stage and Northern Estuaries Salinity Envelope. These revised performance measures have been through a scientific peer review process and are based on the best available science. While the Supplemental Draft EA/FONSI includes a discussion of these revised RECOVER performance measures, the LOOPS modeling performed on the preferred alternative does not utilize them. Moreover, neither RECOVER nor other scientists have developed a HAB performance measure to scientifically assess the impacts of the preferred alternative on HABs in Lake Okeechobee. TNC therefore believes that USACE has not evaluated the performance and impacts of the preferred alternative using the best available science.
- c) Water Banking -The USACE proposed water bank concept appears to allow shifts in real time water management operations that could have unintended consequences for the system. The results of holding back flood discharges in the wet season in anticipation of low volume releases during the dry season could directly impact Lake Okeechobee and Estuary ecology as well as parts of the ecosystem in ways that have not been considered in the Supplemental Draft EA/FONSI. Table 1 in Appendix A presents a HAB operational accounting

example for 2018., Although for the first eight weeks listed in the example the LORS 2008 Part D guidance only calls for releases of 650 cfs, the USACE would release up to 2,730 cfs - **a significant increase over four times greater** than the Part D guidance. Moreover, the example water bank concept used in the Supplemental Draft EA/ FONSI ends with a positive balance because it has the benefit of hindsight in the selection of the releases made for the deviation. It does not reflect unknown future conditions. This introduces considerable uncertainty and the potential for significant system wide impacts given the false sense of security the water banking concept creates.

### **System Wide Impacts to the Everglades Ecosystem**

Lake Okeechobee operations impact the Everglades ecosystem, affecting water quality and water supply for natural systems and the people who depend on the ecosystem services they provide. The LORS 2008 EIS and supporting appendices contain hundreds of pages analyzing the effects of Lake operations on all sectors of the Everglades ecosystem and selected the operating criteria based on these evaluations. There is no true system-wide analysis contained in the EA because the LOOPS model that was utilized is only on a screening level model and cannot accurately assess impacts throughout the south Florida ecosystem.

Fundamentally, USACE endeavors to provide itself with maximum operational flexibility to address **only one** of the potential system-wide impacts – harmful algal blooms. This operational flexibility is so open- ended that the USACE is introducing a level of unpredictability in how the Lake will be operated. This unpredictability has the potential to negatively impact water supply to and water quality for natural systems which depend on the timing of water releases under normal, flood and drought conditions. The potential length of the proposed planned deviation (until the Lake Okeechobee Systems Operating Manual (LOSOM) process is completed in 2022) heightens the necessity of a close look at system-wide impacts.

### **Transparency and Inclusion**

The 2020 proposed planned deviation from LORS 2008 is a misnomer. USACE explicitly states in the Supplemental Draft EA/FONSI that it is multi-year change to existing Lake Okeechobee Operations that could be used more than once a year – or not at all. It is at its essence a fundamental and permanent change to the 2008 LORS. A permanent schedule change is not a minor action –it is a major federal action that significantly impact the environment – and such action requires an Environmental Impact Statement.

An EIS fulfills NEPA's requirements for transparency and inclusion for actions with significant effects. An EIS requires that alternatives be evaluated and that impacts of the proposed action be fully analyzed. Lake Okeechobee operations have systemic impacts to the Everglades ecosystem. Representatives for all parts of the system should have

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reasonable opportunity to participate by evaluating and questioning the science, providing input, and having that input meaningfully evaluated and incorporated into the preferred alternative. The need to include the most updated performance measures, detailed modeling, and peer-reviewed scientific information cannot be understated. Historical experience has shown that controversial and complex proposals involving Everglades restoration are only achievable where there is opportunity for all stakeholders to provide input and for collaboration to occur so that unintended consequences are minimized, and balanced solutions are achieved.

### **Recommendations**

TNC urges the USACE to select a more robust and inclusive process to effectively evaluate proposed operations for harmful algal blooms. TNC suggests two options for consideration:

1) Utilize the LOSOM process instead of the planned deviation. The USACE is finalizing the performance measures and preparing to undertake the comprehensive hydrologic modeling that will generate alternative schedules. Given that USACE has indicated that it does not plan to use the planned deviation in 2020, it is a more prudent course of action to utilize the Environmental Impact Statement process to address HAB since the timeline for LOSOM completion is 2022.

2) Prepare a Supplemental EIS for LORS 2008 to evaluate the planned deviation. The Supplemental EIS should be based on the best available scientific information for performance measures; using the most current version of the RSM model used to develop and evaluate alternative plans; and a transparent public process allowing for effective stakeholder participation.

TNC believes that utilizing the EIS process with either option will help reduce the likelihood of unintended system wide consequences from operations focused on preventing harmful algal blooms and will allow for a diversity of stakeholder comments to be considered and incorporated into the planning process. Should you have any questions, please contact Beth Lewis, Freshwater Program Manager ([Beth.Lewis@tnc.org](mailto:Beth.Lewis@tnc.org)/561-348-4844).

Regards,



Beth C. Lewis

Freshwater Program Manager

CC: Lt. Col. Todd Polk, Jacksonville District