



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

February 27, 2020

Mr. Chris Stahl, Coordinator
Florida State Clearinghouse
Florida Department of Environmental Protection
3800 Commonwealth Blvd., M.S. 47
Tallahassee, FL 32399-2400

RE: Central and Southern Florida, Everglades Agricultural Area, Florida, Final
Environmental Impact Statement Dated January 2020.
Formally titled: Draft Environmental Impact Statement for SFWMD Section 203 EAA
Southern Reservoir and Stormwater Treatment Area (June 2018) Project
FL202001278823

Dear Mr. Stahl:

The Florida Department of Agriculture and Consumer Services (FDACS) appreciates the opportunity to provide comments on the Final Environmental Impact Statement (FEIS) the United States Corps of Engineers (USACE) has prepared in accordance with the National Environmental Policy Act (NEPA) for the Everglades Agricultural Area (EAA) Reservoir Project. FDACS continues to be supportive of the efforts to achieve comprehensive restoration of the greater Everglades ecosystem through the implementation of the components of the Comprehensive Everglades Restoration Plan (CERP), while maintaining those legal protections for flood control and water supply established in law, including the Water Resources Development Act (WRDA) of 2000. The comments provided below focus on those aspects of the FEIS that have the potential to impact agricultural lands and operations within the project area.

1. Lake Operations Assumptions re: Savings Clause Requirements.

FDACS is concerned that an operations schedule for Lake Okeechobee, if adopted without consideration of the overall CERP water budget and sequencing to meet the Savings Clause requirements, will create difficulties for the implementation of the EAA Reservoir Project and other components of the Central Everglades Planning Process. Individual components of the Central and South Florida Project, including the operations of Lake Okeechobee and the

Mr. Chris Stahl, Coordinator

Page Two

February 27, 2020

associated project infrastructure, are vital parts of a holistic structure that must be operated and regulated cooperatively to achieve the desired levels of service for the myriad of uses.

The Savings Clause enumerated in WRDA 2000 was included to ensure that existing users of water supply and flood control are not impacted by the construction of CERP, while achieving holistic restoration of the ecological systems. The Savings Clause was an essential element in the acceptance of CERP by the stakeholders. Any analysis of system operations, including the regulation of Lake Okeechobee, as well as CERP projects, must begin with those levels of service established in law at the time of establishment of CERP.

As the EAA Reservoir Project is a key component of CERP, it is subject to analysis under the Savings Clause at the foundational levels of protection based on the Lake Okeechobee regulation schedule in place at the time of the adoption of CERP, rather than the interim LORS 08 schedule, which fails to provide the levels of protection guaranteed through the Savings Clause in WRDA 2000. This “interim” regulation schedule was only expected to be in place for a 3-year period, with a return to previous levels of service expected after completion of repairs to the Herbert Hoover Dike.¹ At a minimum, the USACE analysis under the FEIS should ensure that existing legal users are guaranteed a 1 in 10-year level of drought protection, as required by the Savings Clause, and not the 1 in 6-year level of protection provided under LORS 08. If new storage within the regional system is not constructed and provisions made for replacement water to users to meet the levels of service for drought protection required by CERP, the existing schedule will increase the likelihood of water shortage conditions in South Florida and decrease the likelihood of meeting water supply requirements during the 1 in 10-year drought condition.

The significant reduction in water shortage cutbacks that could be achieved in the EAA Project through use of the EAA Reservoir to meet water supply needs in the Lake Okeechobee Service Area constitutes a positive step in realizing the CERP goals for the EAA Reservoir Project. This must include a project that meets EAA water supply demands along with the needs of the natural

¹ This was noted by the SFWMD in subsequent Lower East Coast Water Supply Plans, since the adoption of the updated schedule: “For surface water users in the Lake Okeechobee Service Area (LOSA), studies and analyses supporting the USACE’s 2008 Lake Okeechobee Regulation Schedule (2008 LORS) projected a decline in the physical level of certainty of agriculture users reliant on lake water supplies, from a 1-in-10 year to a 1-in-6-year drought return frequency. State funding has been provided to assist the USACE in expediting the Herbert Hoover Dike rehabilitation schedule. The current Integrated Delivery Schedule indicates completion of the rehabilitation by 2022 and evaluation of a revision of the 2008 LORS beginning in 2019. Additional water from Lake Okeechobee resulting from operational changes or a revised regulation schedule is expected to return the lake to an MFL prevention strategy, enhance the level of certainty for existing permitted users now receiving less than a 1-in-10-year level of certainty, and support environmental objectives.” See, *South Florida Water Management District 2018 Lower East Coast Water Supply Plan Update Planning Document* at ES-5 (Adopted January 14, 2019), at ES-5.

https://www.sfwmd.gov/sites/default/files/documents/2018_lec_plan_planning_doc.pdf

Mr. Chris Stahl, Coordinator
Page Three
February 27, 2020

system. Therefore, FDACS recommends incorporating the operational requirement of utilizing the EAA reservoir to reduce water shortage impacts as a formal part of the operation manual section associated with the EAA Reservoir Project.

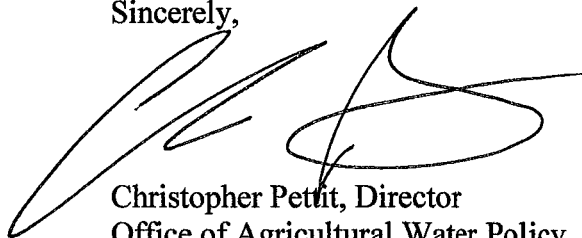
2. Flood Protection.

The EAA reservoir project in the 1999 CERP Plan approved by Congress was one of only two projects that included the enhancement of flood protection as a project purpose. Based on the EIS modifications to flood risk management contained in the FEIS, it appears that the current level of service will be maintained. The conveyance enhancements in this plan, coupled with the new inflow pump station for the EAA reservoir, would allow some enhancement to be achieved through purely operational means. The ability to reduce peak stages in both the Miami and North New River Canals would greatly reduce the need for flood control pumping at S-2 and S-3 while providing improved flood protection for the farms and cities near the Lake.

FDACS appreciates the opportunity to provide comments on the Central and Southern Florida, EAA, Florida, FEIS. We look forward to continued progress on CERP projects and working with our state and federal partners to achieve continued restoration gains while protecting those levels of service guaranteed by law to impacted stakeholders.

If you have any questions regarding FDACS comments, please contact Christopher Pettit, Director of the Office of Agricultural Water Policy at (850) 617-1704 or Christopher.Pettit@fdacs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Pettit', is written over a large, faint, stylized watermark or background graphic.

Christopher Pettit, Director
Office of Agricultural Water Policy
Florida Department of Agriculture and Consumer Services