

Miccosukee Tribe of Indians of Florida

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August 23, 2019

COL Andrew Kelly
Commander, Jacksonville District
US Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, Florida 32207-0019

SUBJECT: Miccosukee Tribe's Comments on the *"Draft Environmental Assessment and Proposed Finding of No Significant Impact for the 2019 Planned Deviation to the Water Control Plan for Lake Okeechobee and the Everglades Agricultural Area (LORS 2018)"*.

Dear COL Kelly:

The Miccosukee Tribe of Indians of Florida (Tribe) appreciates the opportunity to comment on the *"Draft Environmental Assessment and Proposed Finding of No Significant Impact for the 2019 Planned Deviation to the Water Control Plan for Lake Okeechobee and the Everglades Agricultural Area (LORS 2018)"*. We understand that this proposed action is intended to improve the ecological health of Lake Okeechobee and the two estuaries while reducing the risk to public health associated with Harmful Algal Blooms (HAB).

The Tribe fully appreciates that there are many competing needs in the management of water resources in south Florida. In this instance, the Corps of Engineers (Corps) appears to have done an outstanding job of addressing the numerous issues surrounding discharges from Lake Okeechobee into the Water Conservation Areas (WCAs). **We are most impressed with the following Corps commitments:**

1. "If releases south would cause any of the WCAs to rise more rapidly than is preferable, create or exacerbate high-water conditions, then releases may not be sent south from the lake. Hydrologic, ecological, and water supply conditions within the WCAs would be taken into account before sending water south, consistent with how releases south from Lake Okeechobee are managed under LORS. No impacts to the WCAs are anticipated for HAB operations."
2. "Releases made south would be done for HAB operations only when in the Low, Baseflow, and Beneficial Use Sub-bands and only if conditions allow. Allowable conditions would include when all downstream WCAs are less than a quarter of a foot above the maximum of the upper

Regulation Schedule zone of the downstream WCA(s) and would not contribute to or exacerbate high water events in the WCAs. Flows to the WCAs will be regulated by EAA canal and STA water quality treatment capacity."

3. "Flows to the WCAs will be regulated by canal and STA capacity. Alternative B is not expected to significantly change stages in the WCAs. Potential effects to vegetation in the WCAs including tree islands due to extreme high water events would not occur."
4. "Alternative B is not expected to significantly change stages in the WCAs. Potential effects to vegetation in the WCAs including tree islands due to extreme high water events would not occur."
5. "Ecological conditions within the WCAs would also be evaluated, as per normal operations under LORS 2008. If water levels or rates of rise within the WCAs caused by these HAB operations were forecasted to cause harm then releases south to the WCAs may not be made."
6. "Deliveries of the STA's above design treatment capacity are not expected to change under Alternative B. In general the design capacity of the STA's (designed for 60 k-ac ft/yr from Lake Okeechobee annual average based on a long-term record of required treatment capacity for EAA basin runoff) needs to be considered in the larger context. Alternative B is not expected to cause the STAs to exceed design capacity, because releases south will only be made to the maximum practicable (consistent with LORS Part C). Once the Corps determines that releases should be made south from the lake, the quantity and exact timing of those releases are determined by the SFWMD. They determine what maximum practicable flows are for that operation which includes the conveyance capacity of the EAA canals as well as the storage and treatment capacity of the STAs. If it is determined that no releases south can be made due to treatment capacity, then flows will not be made."
7. "The proposed action is not expected to cause the STAs to exceed design capacity. Once the Corps determines that releases should be made south from the lake, the quantity and exact timing of those releases are determined by the SFWMD. They determine what maximum practicable flows are for that operation which includes the conveyance capacity of the EAA canals as well as the storage and treatment capacity of the STAs. If it is determined that no releases south can be made due to treatment capacity, then flows will not be made."
8. "The proposed action will not adversely affect water quality and will be in compliance with the Clean Water Act. As the proposed action is strictly of an operational nature, and does not involve any new discharge or construction activity, water quality certification from the State of Florida is not required."

9. "Ecological conditions within Lake Okeechobee, the estuaries, or the WCAs would also be evaluated and if recommendations by other agencies were made against releases for risk of causing ecological harm then releases may not be made."
10. "Ecological conditions within the WCAs would also be evaluated, as per normal operations under LORS 2008. If water levels or rates of rise within the WCAs caused by these HAB operations were forecasted to cause harm then releases south to the WCAs may not be made."
11. Water supply conditions would also be evaluated throughout HAB operations. HAB operations would not be implemented in the WSM band or if significant impacts to water supply (such as risk of falling into the WSM) were high. A buffer of 0.25' above the WSM band would also trigger releases to be reduced or possibly ceased to reduce the risk of falling into this band. Advance releases would not be utilized if conditions such as drought or La Niña are forecasted, due to the risk to water supply."
12. "Environmental conditions within the WCAs would also be taken into account. If releases south would cause any of the WCAs to rise more rapidly than is ecologically preferable, then releases may not be sent south from the lake. Releases south would be determined based on weekly coordination with agency scientists (SFWMD and FDEP) and the WCA-3A Periodic Scientist Calls. Hydrologic, ecological, and water supply conditions within the WCAs would be taken into account before sending water south, consistent with how releases south from Lake Okeechobee are managed under LORS. No impacts to the WCAs are anticipated for HAB operations."

In conclusion, the Tribe would like to congratulate the Corps of Engineers staff for taking a balanced approach to the problem of Harmful Algal Blooms. All parts of the South Florida Ecosystem are related and a holistic approach to a multi-faceted problem is greatly appreciated by the Tribe.

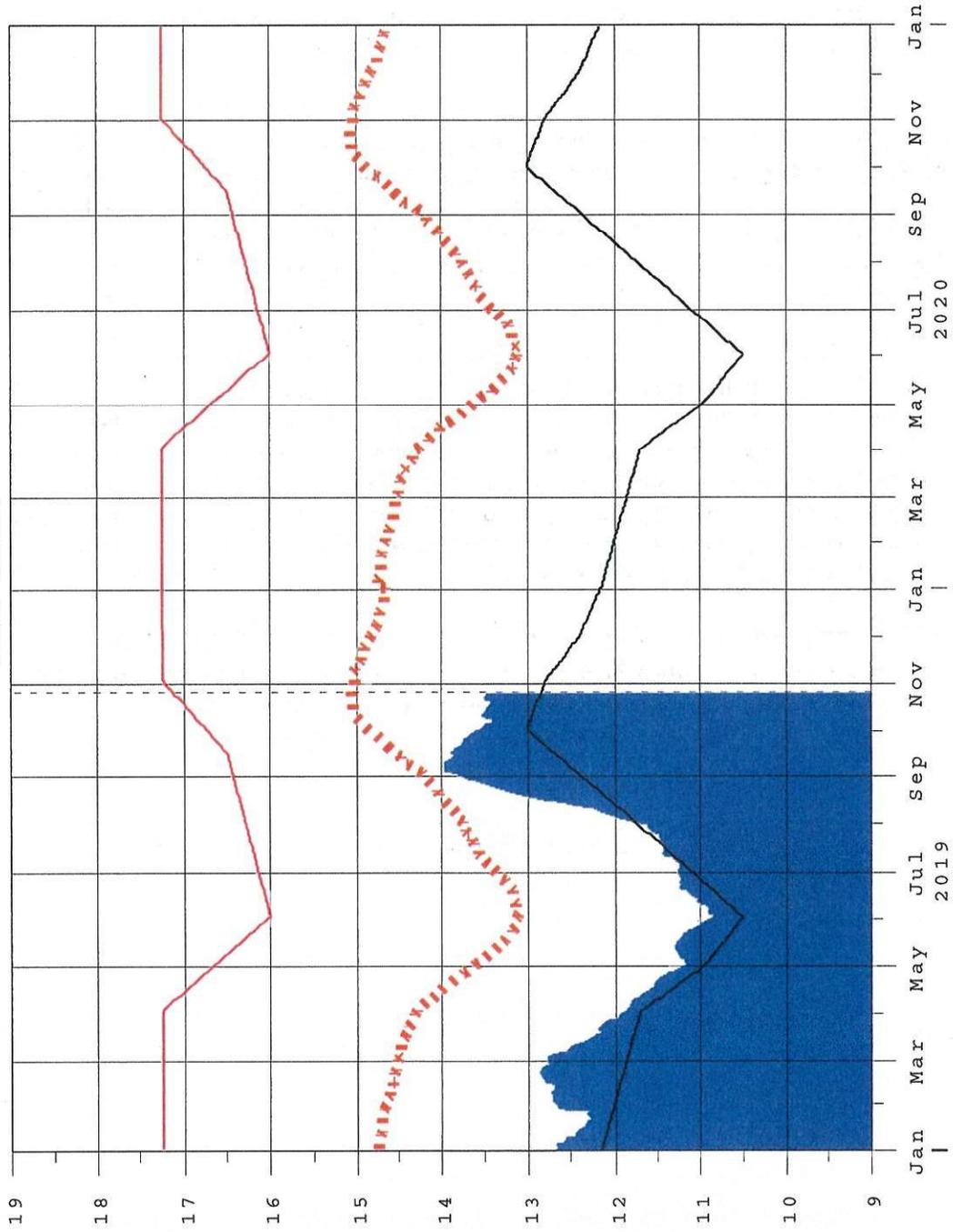
Sincerely yours,



Billy Cypress
Tribal Chairman

Lake Okeechobee

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Elevation in Feet NGVD

- High Lake Management
- Okeechobee Avg Elev
- Average Elev [1965-2007]
- Water Shortage Management

Lake Okeechobee Operations – Duncan NOTES

The Corps of Engineers attempts to balance multiple (and often conflicting) purposes:

1. Flood control
2. Public safety (Integrity of Herbert Hoover Dike)
3. Navigation – Inter-coastal waterway
4. Water supply (Environment vs Agriculture vs Urban Wellfields)
5. Ecological Health of Lake vs Ecological health of WCAs
6. Salinity levels of both estuaries
7. Prevent wellfields from Saltwater Intrusion
8. Protect threatened and endangered species (Wood Stork and Snail Kite)

EFFECTS:

Lake Level 17.25 to 15.5

This is the Upper Band for L.O. Water Levels.

Above 17.5 the Herbert Hoover Dike may be impacted (safety concern for communities living south of the lake)

Lake Level 15.5 to 12.5

Tribally Preferred Operations. “ Ideal Conditions”: Water in L.O. should be highest in December (around 15.5 to 16.0 ft.) then would gradually decrease until June (to about 12.5 ft). As the rainy season starts, the lake gradually fills up until January (lake at 15.5 to 16.0 again).

Most ecologically friendly for littoral zone around lake

Best fish habitat

Best aquatic plant life habitat

Best able to keep STAs hydrated – otherwise nutrient export.

Lake Level 12.5 to 10.0

Water Shortage Band

SFWMD orders water usage cut backs and mandatory water restrictions

Water deliveries to South Dade Conveyance System is cut back

If lake goes below 11 feet for more than 80 days, Minimum Flow and Level violation of state law.

Decrease in water deliveries to Caloosahatchee Estuary – Oyster and Seagrass impacts

Cut backs on deliveries to Seminole Tribe. Seminole Water Rights Compact violations.

Navigation Restrictions: Lake crossings dangerous for deep draft boats.

Reduced lock operations at C-43 and C-44 canals

Impacts to agriculture – water supply for crops

Recreational and Commercial fishing impacts as marinas close

Lake Level 10.5 to 9.5

Severe water restrictions for Dade and Broward Counties

Risk of permanent damage to wellfields due to saltwater intrusion

Public water Utilities (City of Okeechobee) cannot make lake withdrawals

Drinking water supply for West Palm Beach impaired

SFWMD orders increased water shortage restrictions for 6 Million South Florida residents

Wildlife deaths in Water Conservation Areas (including Endangered Species)

Permanent soil (muck) loss in Water Conservation Areas

Increased incidence of wildfires in Water Conservation Areas

Lake Level 9.5 to 8.0

Saltwater intrusion into Caloosahatchee River (C-43)

Navigation Locks cannot be operated – No navigation from Lake Okeechobee Inter-coastal Waterway

Lee County Water Treatment Plant is compromised

Pump Stations S-351, S-352, and S-354 on rim of Lake Okeechobee are DRY (inoperable)

Stormwater Treatment Areas are drying out and EXPORTING nutrients into Everglades.

Everglades are at extreme risk of fire – permanent destruction of habitat and loss of tree islands.

Seminole Tribe not receiving any water at Brighton Reservation or Big Cypress Reservation. Seminole Water Rights Compact violation.

Other considerations:

Cape Sable Seaside Sparrow – FWS has forced the COE to keep S-12A and S-12B gates closed 6 months out of the year! Water cannot leave WCA-3A fast enough. Causes flooding of Tree Islands in WCA-3A and INABILITY to move water south.

S-12 Structures are blocked by 60 years of sediment accumulation and vegetation on the downstream side. ENP will not allow S-12C or S-12D to be cleared due to “Wilderness Designation”. Water cannot leave WCA-3A fast enough. Causes flooding of Tree Islands in WCA-3A and INABILITY to move water south.

Original Intent of Modified Water Deliveries Project has been abandoned. Water from WCA-3A was SUPPOSED to flow through L-67 levees into WCA-3B and then through S-355A & S-355B structures into Everglades National Park. WCA-3B component has been delayed until CEPP (maybe). S-333 North now under construction. However, the “Skyway bridges” do offer a beautiful view of the L-29 levee holding water back!

System is permanently changed. “Send the Water South” is naive at best. Short hydroperiod wetlands are now cities. Result: North of Tamiami Trail, roughly ½ of system has been lost. South of Tamiami Trail most of Everglades remain. No longer “River of Grass”. IMPOUNDMENTS. It’s like trying to put 10 pounds of sugar in a five pound bag. EAA Reservoir only shifts the problem from estuary to the Everglades – where we already have a phosphorous problem. Makes pollution of Everglades more certain (43% increase in water and 36% increase in phosphorous load).

Lake Okeechobee Advisory Committee could not resolve bottom sediment problem. Wind and wave action stir up bottom sediment and keep phosphorous levels over 100 ppb TP. We could put distilled water into Lake Okeechobee and it would be polluted when it comes out!

Water Quality Analysis (WY2013 – WY2017):

Lake Okeechobee INFLOW: The NORTHERN WATERSHEDS contribute 95% of the flow, 93% of the Phosphorous Load and 89% of the Nitrogen Load.

Sugar farming contributes 2% of the water, 4% of the phosphorous Load and 7% of the Total Nitrogen Load to the lake. We must focus NORTH of the Lake if we want to solve the L.O. problem.

St. Lucie Estuary INFLOWS: Local basin Runoff accounts for 74% of the flow, 82% of the Total Phosphorous Load and 71% of the Total Nitrogen Load to the estuary. Yet, the St. Lucie Estuary citizens believe the Sugar Farmers are to blame for the algal blooms on the east coast!

Caloosahatchee Estuary INFLOWS: Local basin runoff accounts for 65% of the flow, 72% of the Total Phosphorous Load and 61% of the Total Nitrogen Load to the estuary.