UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

August 16, 2007

Mr. Stuart Applebaum
Chief, Planning Division
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Attn: Ms. Yvonne Haberer

Subject: EPA Review of COE's Revised DSEIS for Lake Okeechobee Regulation Schedule Study (LORSS) Dated June 2007; Glades, Hendry, Martin, Okeechobee and Palm Beach Counties, Florida; CEQ #20070267; ERP #COE-E39051-FL

Dear Mr. Applebaum:

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the subject U.S. Army Corps of Engineers (COE) Revised Draft Supplemental Environmental Impact Statement (RDSEIS) for LORSS. EPA has recently provided comments on the COE's prior LORSS document (August 2006 DSEIS) in a letter dated September 28, 2006.

LORSS is a Comprehensive Everglades Restoration Plan (CERP) evaluation of the COE's proposed new water regulation schedule for water releases from Lake Okeechobee (Lake) relative to the existing Water Supply Environment (WSE) schedule. The modifications to the Lake release schedule are only operational, with no structural changes being offered. The proposed LORSS schedule is also only an interim plan until a re-evaluation is made in 2010 (when additional water storage areas are to be available). The DSEIS supplements the COE's 1999 WSE Final EIS (FEIS) and the present RDSEIS revises the DSEIS.

The RDSEIS re-examines the regulation schedule proposed in the DSEIS. During this LORSS re-evaluation process, EPA has participated in numerous interagency meetings and conference calls. The re-assessment has resulted in the COE's selection of a new preferred alternative (Alt. E over Alt. 1bS2-m in the DSEIS) which provides somewhat more favorable flows to the Caloosahatchee and St. Lucie Estuaries. Environmentally, we support these revisions to the regulation schedule, but defer to the COE regarding the revised schedule's safety effects on the integrity of the Lake's Herbert Hoover Dike (HHD) relative to the regulation of maximum Lake pool elevations.

Although Alternative E performs somewhat better for the estuaries, particularly in limiting high flows during wet and very wet years, high flows are still predicted to occur with attendant impacts to both estuaries. While these slight improvements are beneficial, it is clear that without the implementation of the planned additional water storage capacity for the Lake (e.g., reservoirs, stormwater treatment areas and other storage through CERP and Florida's Acceler8 Program), seasonal high and low flows from the Lake cannot be sufficiently regulated while also maintaining pool elevations at safe levels. As such, the ecological health of the lower river and estuarine oysters, seagrasses and salinities would continue to be impacted by too much or too little water. Accordingly, EPA supports the environmental benefits of Alternative E and encourages its rapid implementation. More importantly, we support the rapid implementation of additional storage for the Lake to measurably improve the flow regimes to both estuaries. We appreciate the State of Florida's initiative in providing fast track implementation for such storage through its Acceler8 Program.

From a NEPA process perspective, we appreciate the distribution of a revised LORSS document since a new preferred alternative (Alt. E) was selected. We are also pleased to note that an earlier version of Alternative E had already been presented in the DSEIS. The re-distribution of the DSEIS as the RDSEIS will allow additional public review of the modifications to Alternative E as the COE's new preferred alternative.

We have concentrated our NEPA review of the RDSEIS on the COE's responses to our comments on the previous DSEIS (Appendix H of the RDSEIS). We find that most of our comments were adequately addressed. EPA offers the following comments on selected responses in Appendix H:

* Response 2 (Water Quality) – Section 5.9 on water quality conditions should be further improved in the Final SEIS (FSEIS). Specifically, it should address Lake Total Maximum Daily Loads (TMDLs) and water quality conditions in the St. Lucie Estuary and the Calooshatchee River. The current description is not representative.

* Response 7 (Nomenclature) – We appreciate the suggested simplification of the nomenclature for the alternatives.

* Response 8 (Cumulative Impacts & Affected Environment) – We note the improvements to Sections 6.14 and 6.21 in response to our comments.

* Response 12 (Caloosahatchee River Reach) – The Caloosahatchee River upstream of the S-79 structure (salinity control structure) is a valuable natural resource. It should be further described in the *Affected Environment* chapter of the FSEIS.

* Response 13 (St. Lucie Estuary) – The water quality portion of the *Affected Environment* chapter for the St. Lucie Basin (river & estuary) should be upgraded in the FSEIS. Such information was documented, for example, in the COE's Indian River South (IRL-South) EIS.

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EPA rates this RDSEIS as "EC-1" (Environmental Concerns with some additional information requested). While we defer to the COE regarding Lake elevations and HHD safety, we support Alternative E over 1bS2-m from an environmental perspective. Nevertheless, Alternative E (and other such alternatives) can only attempt to be the best operational compromise until the additional planned CERP and Acceler8 water storage infrastructure is constructed and becomes operational. Therefore, EPA bases its environmental concerns rating on the remaining water flow impacts on the lower river and estuarine impacts of flow releases from the Lake.

Should you have questions regarding our comments, please contact Chris Hoberg of my staff (404/562-9619 or hoberg.chris@epa.gov) for overall NEPA issues. For technical issues, please contact Eric Hughes of the South Florida Office in the EPA Water Management Division (904/232-2464 or hughes.eric@epa.gov) located at your COE Jacksonville District offices.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc:
Doug Chaltry – USFWS at Vero Beach, FL
Don Fox – FFWC at Okeechobee, FL
Greg Knecht – FDEP at Tallahassee, FL
Kim O'Dell – SFWMD at West Palm Beach, FL
Bob Pace – USFWS at Vero Beach, FL