UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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February 23, 2016

Stacie Auvenshine
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Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

SUBJ: EPA Review and Comments on the Draft Environmental Impact Statement (DEIS) Herbert Hoover Dike (HHD) Dam Safety Modification Study (DSMS); Glades, Hendry, Martin, Okeechobee, and Palm Beach Counties, FL; CEQ No.: 20150358

Dear Ms. Auvenshine:

Pursuant to Section 309 of the Clean Air Act (CAA) and Section 102(2)(C) of the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA), Region 4 reviewed the Draft Environmental Impact Statement (DEIS) for the Herbert Hoover Dike (HHD) Dam Safety Modification Study (DSMS). The HDD, surrounding Lake Okeechobee, is currently recognized as requiring urgent repairs to minimize risks to public safety and the surrounding environment. The purpose of this letter is to provide our review and technical comments regarding the proposed project.

Alternative 3 is identified in the DEIS as the Preferred Alternative and tentatively selected plan (TSP), as well as the environmentally-preferred alternative. The TSP includes construction of risk reduction measures around the southern half of the HHD, and to limited areas in the northwest sides of the dam, in order to reduce the potential for breach-related damages to the surrounding areas and to ensure the continued safety of the surrounding communities. The construction of a cutoff wall would significantly decrease the likelihood of failure of the embankment and, therefore, reduce the likelihood of risk to surrounding areas, including economic and environmental damages from a potential breach. The objective stated in the DEIS is to identify and recommend a cost-effective alternative risk management plan (RMP) that supports the efficient reduction of risk from a breach of the HHD.

Based on the EPA's review of the project, the Preferred Alternative will result in reducing the risk of adverse impacts on surrounding communities and the environment by lowering the risk of a potential breach in the embankment. We also note that no air quality permits are required, regardless of the selected alternative, and that no wetlands would be impacted by the Preferred Alternative. The project would not impact the water quality of Lake Okeechobee. Therefore, we rated the DEIS's Preferred Alternative as Lack of Objections (LO). The enclosed Summary of Rating Definitions provides a detailed explanation of the EPA's ratings.

We recommend that updated information be included in the Final EIS (FEIS) regarding threatened and endangered species, environmental justice, and coordination activities regarding historic preservation. In addition, the EPA encourages continued government-to-government consultation with the Seminole Tribe of Florida and Miccosukee Tribe of Indians of Florida at all levels of decision-making. The FEIS should include updated information regarding consultation and coordination with the aforementioned tribes. Please see the enclosed detailed comments regarding subjects that EPA requests to be clarified in the FEIS.

We appreciate your coordination with us, and look forward to reviewing the FEIS. If you have any questions, please contact Ramona Klein McConney of my staff at 404-562-9615 or at McConney.Ramona@epa.gov.

Sincerely,

Christopher Militscher, Chief
NEPA Program Office
Resource Conservation and Restoration Division

Enclosures: EPA Review and Comments
Summary of Rating Definitions and Follow-up Action

Enclosure
EPA Review and Comments
Draft Environmental Impact Statement (DEIS)
Herbert Hoover Dike (HHD) Dam Safety Modification Study (DSMS)
Glades, Hendry, Martin, Okeechobee, and Palm Beach Counties, FL
CEQ No.: 20150358

General

The EPA concurs with the need to repair the HDD, and with the objectives of ensuring continued public safety, lowering the probability of experiencing a breach, and avoiding impacts to ecological, cultural, and aesthetic resources and the Everglades ecosystem from a potential breach. We also appreciate your efforts to minimize project impacts during construction.

Climate Change and Greenhouse Gases (GHGs)
Executive Order 13653, Climate Change Considerations (EO 13653), requires Federal agencies to review the effect of climate change on their programs. Tables 5-2–5-4 in the DEIS estimates emissions resulting from the construction of the project alternatives, including the Preferred Alternative. The DEIS also states that climate change is likely to affect water management operations of Lake Okeechobee, which is contained within the Herbert Hoover Dike. In the future, the ability of water managers to keep the lake level within the target parameters is likely to be affected because climate change could increase or decrease the frequency and magnitude of large storm events, alter the frequency and characteristics of rainfall patterns, and influence evapotranspiration from the lake and upstream basins.

The DEIS states that the effectiveness of the dike renovation efforts may be adversely impacted by potential climate change impacts associated with increased frequency and magnitude of large storm events, which could result in more extreme high lake stage events, thereby, potentially placing more stress on the dike. The lake levels are engineered and controlled and, therefore, each alternative for the rehabilitation of the embankment would not be directly affected by sea level rise. However, if storms become stronger, rehabilitation of the embankment would provide more stability for community safety and resource protection. We also note that, depending on the effects of climate change (temperature and rainfall especially), plant community structure within the littoral zone of Lake Okeechobee may change.

Recommendations: We recommend that the FEIS include discussions and analysis of reasonable alternatives and/or practicable mitigation measures to reduce project-related GHG emissions. The FEIS should make clear whether commitments have been made to ensure implementation of design or other measures to reduce Greenhouse Gas (GHG) emissions or to adapt to climate change impacts. The EPA further recommends that the Record of Decision (ROD) commits to implementation of reasonable mitigation measures that would further reduce or eliminate project-related GHG emissions.

Threatened and Endangered Species

The U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) have designated certain species of reptiles, birds, mammals, gastropods, and plants and lichens in

Glades, Hendry, and Palm Beach counties as threatened or endangered, and the DEIS notes that several of these listed species have been observed within the vicinity of the HHD.

The DEIS states that the Preferred Alternative is not likely to adversely affect the threatened and endangered species and their critical habitat in the project area, and that these species would not be directly affected by the construction of a cutoff wall or internal drainage system. However, the DEIS also states that there is a potential for disturbance to the species during construction activities, and page 5-23 describes impacts to protected species as minor and temporary.

Recommendations: The EPA defers to the Federal and the state wildlife agencies on these issues, and recommends that the FEIS provide updated information regarding coordination and consultation with these agencies regarding the protection of threatened and endangered species in the context of the proposed project. Impacts should be avoided to the maximum extent feasible, and unavoidable impacts should be mitigated.

Water Quality

The DEIS states that the Preferred Alternative would not result in impacts to wetlands. However, incidental temporary impacts may occur in association with staging or site access, and the DEIS states that these impacts would total less than half an acre. Therefore, a Section 404(b)(1) evaluation was not prepared as part of the DEIS.

Recommendations: Temporary impacts resulting from construction-related activities, such as staging or site access, should be avoided or minimized to the extent feasible.

National Pollutant Discharge Elimination System (NPDES)

Section 402(b) (2) requires that a NPDES construction activities permit be acquired for construction activities that disturb more than one acre of land. The Florida Department of Environmental Protection (FDEP) issues these permits, which would be acquired prior to initiation of construction of this project. The DEIS states that full compliance with the Clean Water Act (CWA) will be achieved with issuance of a Water Quality Certification under Section 401 from the State of Florida (page 6-1).

Recommendations: Impacts resulting from construction-related activities should be avoided or minimized to the extent feasible. The FEIS should include a listing of permits that are required for this project, and the planned schedule for these permits.

Environmental Justice (EJ)

Pursuant to Executive Order 12898, an assessment of the potential for disproportionately high and adverse health and environmental impacts was included in the DEIS. This assessment concluded that while a significant low-income population resides within the study area, this project is not expected to have disproportionately high and adverse human health or environmental impacts on minority or low income populations.

Communities may experience both benefits and burdens associated with construction. The DEIS identifies potential benefits to minority and low-income populations such as improved safety for community residents in the event of a project failure, but fails to identify potential impacts (page 6-4). In regards to project-related impacts, the EPA notes that a distinction is made between temporary construction impacts and longer-term impacts. However, the DEIS does not specify the construction period. If the construction is likely to be underway for a long period, these impacts may be considered significant for local communities.

According to the DEIS, two public scoping meetings were held in February, 2013 prior to the required public meetings in January 2016 for the proposed rehabilitation of the HHD. It is unclear what specific efforts were made to meaningfully engage minority and low-income populations within the project area throughout the decision-making process.

***Recommendations*:** The EJ analysis should include demographic data, and a summary of impacts on affected minority and low-income populations, including Native American tribes and populations that are dependent on subsistence resources. Issues regarding traffic congestion, socioeconomic impacts, noise, construction impacts and other issues that directly concern the local communities, as well as operational impacts related to these matters, should also be fully clarified in the FEIS. The EPA's EJ and mapping tool, EJSCREEN (www.epa.gov/ejscreen), utilizes standard and nationally consistent data to highlight areas that may have environmental burdens and vulnerable populations, and may assist in determining any project-specific impacts to minority and low-income populations.

The EPA encourages a comprehensive public outreach strategy. This should include, but is not limited to, targeted outreach campaigns to neighbors, informational literature, and updated websites. The FEIS might also include information about the outreach towards, and participation of, minority and low-income populations that may have limited English proficiency. In addition, a summary of any EJ comments or concerns and their resolution should be included in the FEIS. Traffic impacts and emergency preparedness measures are particular topics that should continue to be addressed and coordinated with local communities. The EPA encourages continued coordination with the communities that will be impacted by the construction of the proposed project in an effort to meaningfully involve them throughout the decision-making and construction process.

Tribal Coordination and Consultation

The DEIS states that the Seminole Tribe would probably continue to use the HHD for hunting and fishing (Section 3, Existing Conditions). The DEIS also documents previous communication with tribes regarding the proposed project. The EPA encourages continued government-to-government consultation with the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida at all levels of decision-making. The EPA works closely with both tribes on Everglades-related matters, and is committed to working with other Federal partners to prioritize the tribes' water quality and water management concerns.

Recommendations: The FEIS should include updated information regarding consultation and coordination with the tribes regarding the proposed project. Finalized decision documents should be included, if available.

National Historic Preservation Act (NHPA), Section 106

The Corps of Engineers has determined that there will be no effects to historic properties' area of potential effect (APE) if activities take place within the Federal right-of-way. In 2005, the Corps determined that the cutoff wall for Reach 1, constructed within the Federal right-of-way, would not affect the National Register of Historic Places (NRHP) eligibility of the dike, and the Florida State Historic Preservation Officer (SHPO) concurred. The DEIS provides that the remaining reaches would be expected to attain this determination and subsequent SHPO concurrence. Any actions outside of the Federal right-of-way may have the potential to affect historic properties within the APE, and further consultation with the Florida SHPO and federally-recognized tribes would be conducted in this event. The DEIS notes that consultation is ongoing with the SHPO and federally-recognized tribes (page 6-3).

Recommendations: Compliance with Section 106 of the National Historic Preservation Act (NHPA) should be documented as the project progresses. The FEIS should include an update of coordination activities with the SHPOs and tribes, along with the finalized decision documents pursuant to Section 106 of the NHPA, if available. The EPA defers to the SHPOs and tribes on these issues, and encourages continued government-to-government consultation with the Seminole Tribe of Florida and Miccosukee Tribe of Indians of Florida at all levels of decision-making.

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION*

Environmental Impact of the Action

LO-Lack of Objections
The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns
The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections
The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory
The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS sate, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1-Adequate
The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information
The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate
EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment