







CHARLOTTE HARBOR NATIONAL ESTUARY PROGRAM

1926 Victoria Ave, Fort Myers FL 33901-3414  www.CharlotteHarborNEP.org
239/338-2556  SUNCOM 748-2556  Toll Free 866/835-5785  Fax 239/338-2560

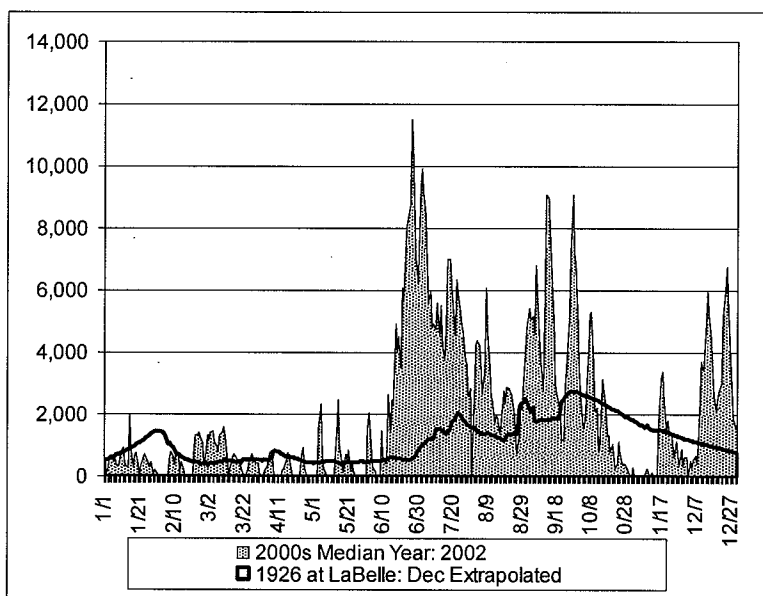
September 26, 2006

Pete Milam, Project Manager
U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, FL 32207-8175

RE: Lake Okeechobee Regulation Schedule Study

Dear Mr. Milam:

Thank you for meeting with partners of the Charlotte Harbor National Estuary Program (CHNEP) on August 25, 2006. I also want to thank the U.S. Army Corps of Engineers for responding to our February 18, 2004 letter, requesting a re-evaluation of the Water Supply/Environmental (WSE) Regulations controlling water flows from Lake Okeechobee to the Caloosahatchee estuary. As you know, flows to the estuary no longer yield a natural hydrograph, do not deliver enough fresh water in the dry season, and deliver excessive flows in the wet season. The following chart compares flows at S-79 during a fairly typical year (2002) and daily flows measured at LaBelle in 1926. The CHNEP Comprehensive Conservation and Management Plan (CCMP), adopted pursuant to Section 320 of the Clean Water Act, specifically calls for a more natural hydrograph including moderating peak flows. Any action which better reflects the natural flow conditions represented by the 1926 data helps to implement our CCMP.



On July 12, 2006, the U.S. Army Corps of Engineers held a public meeting in Fort Myers to present the results of the Lake Okeechobee Regulation Schedule Study. The choice presented as the Tentatively Selected Plan (TSP) for Lake Okeechobee management was 1bS2-m. CHNEP believes that Alternative 1aS2 better met the CHNEP CCMP objective HA-2 which calls for maintaining a more natural seasonal variation for the Caloosahatchee River. Alternative 1aS2, however, was eliminated when the Corps imposed a 17.25' elevation constraint. This 17.25' elevation was utilized as

an "absolute" constraint, rather than a performance measure, and will result in sustained, large volume releases.

On August 22, 2006, the draft Supplemental Environmental Impact Statement (SEIS) was posted on the project website, providing a 45-day comment period ending on October 2, 2006.

The CHNEP provides the following comments and requests changes be made to respond to our suggestions:

- The imposition of the "absolute" constraint of 17.25" elevation reduced the ability for Lake Okeechobee to hold water which will result in excessive flows to the Caloosahatchee estuary. The CHNEP supports the need to protect public safety as it relates to Lake Okeechobee dike integrity and acknowledges the importance of factoring such considerations into the analysis. Therefore, we recommend that the base elevation of the Base Flow zone be lowered to accommodate the reduction of volume related to the High zone. This will reinstate the lost free-board necessary to deliver lower, longer releases to better replicate natural water delivery to the estuary.
- This year, the District and the Corps have been more successful in meeting delivery target water flows to the Caloosahatchee estuary. This has been related to better anticipation of weather conditions and more flexibility. Using a sliding scale of 450-800 csf for the Caloosahatchee and 0-350 csf for the St. Lucie has been very successful. The protocols used that have been successful should be added to Appendix A.
- Protocols added to Appendix A should include as a primary consideration target salinity regimes in the Caloosahatchee estuary and fish spawning in the St. Lucie estuary.
- The Lake Okeechobee Regulation Schedule is just part of a parent Lake Okeechobee and EAA Water Control Plan. There is no analysis regarding the relief that other parts of the system can contribute to lake safety, lake health, and estuary health. For example, there is no analysis given regarding temporary storage north of the lake by temporary deviations from height limits to prevent water creating health and safety problems with the lake. These other opportunities to reduce lake elevations need to be captured or, in some cases, re-captured under the SEIS. The SEIS's continued reliance, under all conditions, on the "practicability" of discharges through the EAA to the WCAs perpetuates a system under which "impracticability" to the South results in destruction of the estuaries to the East and West. More creativity needs to be addressed to the conditions under which releases to the South will be considered to attempt to establish a more natural hydrological regime for south Florida.
- The RECOVER performance measures for the Caloosahatchee Estuary that were relied upon by the Corps in developing the SEIS are stated in terms of release rates at S-79. Therefore, permissible Lake Okeechobee release rates at S-77 should be expressed as the release rate through S-77 which, when added to the basin drainage at S-79, equals the selected performance measure for the Caloosahatchee Estuary.
- The maximum wet season flow to the Caloosahatchee at S-79 that is scientifically documented to be acceptable from an environmental standpoint is 2,800 cfs. Therefore, the SEIS should be amended to eliminate releases to the Caloosahatchee that result in flows in excess of 2,800 cfs at S-79 except when the lake's elevation reaches the High Lake Management Band.
- If releases to the Caloosahatchee Estuary in excess of 2,800 cfs at S-79 continue to be a part of the proposed regulation schedule at lake elevations lower than the High Lake Management Band, the Corps must support that proposal with a full assessment of the environmental impacts on the Caloosahatchee Estuary of those demonstrably damaging releases. Those estuarine environmental impacts must then be balanced against the environmental impacts that would be experienced in the lake, above the lake, in the EAA, and by other users of lake water in order for the LORSS SEIS to meet its stated objective of providing "a more equal distribution of shared adversity" than exists under the current WSE.

- Under the SEIS, pulse releases would no longer be limited to traditional Level 1, 2 or 3 pulses, but would be variable at will up to the maximum flows authorized by the regulatory schedule. While some flexibility in the management of pulse releases likely is desirable, the Corps has succeeded in building in that flexibility over the last year -- for example, by employing partial Level 1 releases when circumstances warranted. The revised schedule should retain specified Level 1, 2 and 3 pulse releases, but should expressly authorize partial pulses where warranted and otherwise consistent with the Operational Guidance.
- It is unclear why so-called "Make-up Releases" are only authorized where the release is to tide (i. e., to the estuaries). If it is important to ensure that authorized releases from Lake Okeechobee to tide occur as soon as limiting downstream conditions abate, it seems equally important that impeded releases through the EAA to the WCAs also occur as soon as impediments no longer exist. The Corps should expand the notion of Make-up Releases to include both releases to tide and those through the EAA to the WCAs.
- The proposed "Non-typical Temporary Operations" (NTO) scenario functions as pre-planned temporary deviation from the basic regulation schedule of the SEIS. The conditions under which NTO are triggered however, are over-inclusive. Legitimate triggers include existing undesirable high lake levels and forecasts of imminent undesirable high lake levels resulting from weather conditions or hydrologic modeling. Unsupportable triggers include (1) long-range or seasonal weather forecasts; (2) unusual ongoing or planned temporary deviation activities at C&SF Project features (e.2.. planned muck removal operations which require lower lake elevations); (3) the desire to facilitate a periodic managed recession of the lake; and, (4) simple agreement among State and Federal agencies indicating an as yet unidentified "need." Authorizing damaging high-volume releases to the estuaries, in particular to the vulnerable Caloosahatchee Estuary on the grounds of suspicion and expedience cannot be supported. These latter 4 triggers should be deleted from the final regulation schedule and the Corps should rely instead on case-specific temporary deviations when specific needs are identified.

Finally, CHNEP supports the following shown in the Draft SEIS schedule:

- Renaming the zones from A through E to the proposed naming hierarchy.
- Designating a base flow zone of 450 csf at S79.

The CHNEP recognizes that the publication of the Draft Supplemental Environmental Impact Statement (SEIS) marks the beginning of a 45-day public comment period ending on October 2, 2006.

If the Charlotte Harbor National Estuary Program can assist you in these tasks in any way, please let me know at lbeever@swfrpc.org.

Sincerely,



Lisa B. Beever, PhD, AICP.
Director