

8. OLD BUSINESS

b. Water Quality Issues

5. Recent City Generated Water Quality Correspondence

- b. April 10, 2006 City of Sanibel Comments on Revised Draft Integrated PIR/EIS for EAA Storage Reservoirs



City of Sanibel

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By Regular Mail and by E-Mail to EAAComments@evergladesplan.org

April 10, 2006

Rebecca Weiss
U.S. Army Corps of Engineers
CESAJ-PD-ES
P.O. Box 4970
Jacksonville, FL 32232-0019

Re: City of Sanibel Comments on Revised Draft Integrated PIR/EIS
for EAA Storage Reservoirs

Dear Ms. Weiss:

The City of Sanibel provides the following comments on the U.S. Army Corps of Engineers' "Revised Draft Integrated Project Implementation Report/Environmental Impact Statement for the Everglades Agricultural Area Storage Reservoirs (February 2006) (hereinafter, the "Revised Draft Report").

SUMMARY

While the proposed EAA reservoir project is not sited in the Caloosahatchee River basin, its placement, design and sizing affect other objectives central to the Comprehensive Everglades Restoration Program ("CERP"), including protection of the Caloosahatchee Estuary from potentially fatal regulatory releases from Lake Okeechobee through S-77 (Moore Haven). It appears that the Revised Draft Report's consideration of alternatives ignores an essential element of the project's stated Purpose and Need. Moreover, the failure to assess the environmental impacts of this project on the CERP as a whole may result in the foreclosure or impairment of future projects that represent a crucial means of protecting the coastal estuaries. In this way, the Revised Draft Report's analysis of cumulative and secondary effects is plainly lacking. The City believes that further analysis of this project consistent with addressing the shortcomings identified below is imperative before preparation of a Final EIS.

COMMENTS

I. Integration of EAA Storage Reservoir Project with Overall Program Objectives

A major objective of the CERP is restoration of the Caloosahatchee and the St. Lucie Estuaries. In principal part, this restoration is dependent upon eliminating, as opposed to reducing, the biologically damaging releases from Lake Okeechobee that have been employed over the last several years to protect the integrity of the Herbert Hoover Dike. These high-volume, flood control releases have impaired the Estuaries; the cessation of these releases is a prerequisite for Estuary restoration.

Many projects and operational modifications, either underway or under consideration, will help move the Central & Southern Florida ("C&SF") Project toward this express goal. Among these are the installation of forward pumps to ensure adequate water supply at lower Lake elevations; operational changes to the Water Supply/Environment decision matrix designed to reduce Lake elevations and otherwise to better protect the ecosystems of the Estuaries; and the installation of various satellite storage reservoirs, storm water treatment areas ("STA") and aquifer storage and recover ("ASR") systems designed to relieve the Herbert Hoover Dike of some fraction of the water stored by the Corps for the benefit of other users of the C&SF Project. Each of these components is expected to play some role in finally eliminating the practice of flushing unwanted excess water down the Caloosahatchee and St. Lucie Rivers.

Notwithstanding these efforts, there currently is no guarantee that future high water conditions will not, once again, result in the use of our east-west river systems as drains to relieve an overstressed Hoover Dike. Whether it is because the capability of the ASRs remains a subject of conjecture and continuing study, or it is because the models predicting inflow to the Lake represent atypically dry conditions, or because future re-evaluations may lead the Corps to further de-ratings of the Hoover Dike's safe operating range, there simply is no assurance at this time that existing CERP projects will achieve the programmatic goal of eliminating massive flood control releases through the coastal estuaries. For this reason, it is critical that each individual CERP project be evaluated to determine the degree to which it will improve the estuarine ecosystems by reducing flood control releases, and also its impacts on the larger programmatic goal of eliminating those unacceptable releases and enabling full restoration of the Estuaries.

One reasonable alternative, although not retained for detailed consideration in the Revised Draft Report, would be construction of a major flow-way capable of conveying significant volumes of excess water from Lake Okeechobee south through the Everglades and into Florida Bay. With proper capacity and treatment capability, such a flow-way would re-create a key element of the historical pattern of water flow in the South Florida ecosystem and simultaneously provide an emergency drainage pathway allowing the safe release of surplus waters that are currently flushed through into the Estuaries at such a terrible cost. Designation of such a flow-way should occur as soon as possible to avoid losing necessary lands to other uses and to ensure that plans for other CERP facilities in the EAA can contribute to this common goal for handling excess water. Here, for example, while the proposed EAA reservoir is needed for storage of waters outside Lake Okeechobee, its location and surrounding berms may serve as a future impediment to this essential flow-way. This could be avoided by promoting a reservoir design that allows a major north-south flow-way to be created within or adjacent to the reservoir itself. Such an alternative should be considered by the Corps in the Final EIS.

A. Unwarranted Limitation of Project Purpose and Need Statement

The "Goals and Objectives" of the EAA Reservoirs Project expressly include "[h]abitat *restoration* in the Caloosahatchee and St. Lucie Estuaries." Revised Draft Report at 1-7 (emphasis added). In contrast, the Revised Draft Report describes the decision to be made on the basis of this EIS to be, in pertinent part, whether the construction of the proposed reservoir ". . . meets the natural and local water supply demands, reduces the withdrawals from the natural systems, provides proper timing and distribution of water to the WCAs, and *reduces* freshwater flows to the estuaries." Revised Draft Report, Section 1.6 at 1-19 (emphasis added).

The mere *reduction* of freshwater flows to the coastal estuaries is not sufficient to accomplish the project purpose of *habitat restoration* in the Estuaries. By employing this lesser standard, the Revised Draft Report both establishes and evaluates its alternatives against the wrong criterion with regard to the estuaries. The selection of alternatives and the evaluation of alternatives selected that is provided in the Revised Draft Report does not fully or fairly assess the relationship of the proposed project to a fundamental objective of both this project and the CERP as a whole. The Final EIS must remedy this deficiency by establishing alternatives responsive to all aspects of the project's stated goals and objectives, and by evaluating those alternatives against the full range of project goals -- including the goal of restoring the estuarine habitats.

B. Failure to Adequately Assess Project Impacts

More important, the failure to acknowledge and quantify the full range of cumulative and secondary impacts of the proposed EAA project on habitat restoration in the estuaries prevents the Revised Draft Report from recognizing the full benefits of some alternatives -- and acknowledging the potentially catastrophic adverse impacts of others. This deficiency is most clearly evident in the Revised Draft Report's rejection of the flow-way alternative. The Corps focuses erroneously and exclusively on challenges that alternative faces as a water storage device, but nowhere addresses its benefit as a mechanism for draining the one million or more acre feet of excess water that otherwise will continue to be drained through the coastal estuaries. Revised Draft Report, Section 5.2.1.5 at 5-9 and 5-10. Conversely, the Revised Draft Report touts the efficiency with which the preferred alternative functions as a water storage system, but fails to assess the environmental cost should its construction constrain or foreclose altogether construction of a southern flow-way. Nowhere is there an adequate quantitative or qualitative assessment of the harm that will continue to be done to the Estuaries following construction of the preferred alternative, nor an articulation of design criteria (e.g., construction of a flow-way through the EAA that is capable of providing valuable water quality improvements or simply an expansion of the existing Miami, North New River, Bolles and Cross Canals and related STA's) that would be necessary elements in any alternative to protect the Estuaries from that continuing harm (*i.e.*, to accomplish "restoration"). Revised Draft Report, Sections 5.2.1.6, 5.3, and 5.4, at 5-10 and 5-11, and 5-12 through 5-62, respectively.

Similarly, the section of the Revised Draft Report presenting its environmental assessment gives no attention to the impact of this project on the overall goal of eliminating damaging flood control releases to the Caloosahatchee and St. Lucie Estuaries from Lake Okeechobee. Rather, that section states only that the proposed project will provide benefits to the Estuaries by ". . . reducing the extreme discharges to the estuaries . . .," citing unspecified salinity increases and improvements in the condition of submerged vegetation as the benefits conferred in the Caloosahatchee Estuary. Revised Draft Report at 7-33.

"Reducing" the releases of fresh, nutrient-laden Lake waters into the Estuaries is not identical to achieving "habitat restoration" in those resources. Even when quantified, such "reductions" must be analyzed to determine whether they achieve (or by how much they fall short of achieving) habitat restoration. For example, a projected reduction by 25% of the back-pumping from the EAA to the Lake implies a continuation of 75% of current back-pumping -- back-pumping that further pollutes the Lake and increases the threat of unacceptable flood-control releases to the Estuaries. One might expect such information to be a cue to the Corps to take this opportunity to ensure the Estuaries' restoration by increasing the holding capacity of the proposed EAA

reservoir or by providing another adequate relief system to deal with hydraulic excesses in the EAA. To adequately inform the Corps' ultimate decision on these issues, however, the Final EIS must meaningfully quantify and evaluate the environmental benefits that are somewhat blithely claimed by the Revised Draft Report.

Beyond its failure to quantify and evaluate the benefit that the EAA reservoir project may produce by incrementally reducing flows to the Estuaries, the Revised Draft Report's environmental assessment nowhere addresses the potential adverse impact that this project may have on achieving a complete and permanent elimination of those "extreme discharges." Potential interference with the achievement of a fundamental environmental objective invoked by the Corps itself as an express purpose of this project -- and of the program as a whole -- certainly qualifies as a material cumulative and secondary impact. This impact must be considered in the Final EIS, and considered in a substantive manner.

By ignoring impacts on the fundamental goal of restoring the habitats of the coastal estuaries, the Revised Draft Report effectively relegates the Caloosahatchee and the St. Lucie Rivers to the status of convenient drains for use by the C&SF Project during times of water surplus. This, of course, is inimical to the project and program objective of habitat restoration in the Caloosahatchee and St. Lucie Estuaries. Resolution of this deficiency requires performance of a full and fair evaluation of each alternative's cumulative and secondary impacts on the long-term ecosystem health of the coastal estuaries. While it is not the province of these comments or even of the Final EIS to do more than inform an eventual record of decision, one approach that the Corps might take is to re-evaluate the design and sizing of the canals, control structures, pumps and storm water treatment areas of its preferred alternative and ensure that those structures have the capacity to convey and treat all foreseeable hydraulic excesses in the CS&F Project that otherwise would be diverted from Lake Okeechobee to the Caloosahatchee or St. Lucie Rivers. Regardless of the approach taken, however, the impact of the proposed project on the fundamental goal of both the project and the program in respect to the Estuaries must be accounted for in the Final EIS.

C. Operational Considerations

One of the most important reasons the existing Water Conservation Areas ("WCA") and their adjacent STA's have not been effective in accepting excessive water from Lake Okeechobee is that they are consistently at or near design capacity due to continually being pumped full of water drained from the agricultural fields of the EAA. As a result of this use as a drainage feature for the agricultural lands, these waterbodies remain full even during times of drought such as we are currently experiencing. This blocks and impedes efforts to divert Lake water south, and results in damage to the Estuaries.

This project's stated purpose of storing waters from the Lake to minimize damaging releases through the Caloosahatchee and St. Lucie Estuaries will not be realized if the new project, like the existing works is used as a drainage feature for the EAA. Statements in the Revised Draft Report describing how the project will improve flood protection for parts of the EAA raise significant red flags that this could indeed be the case. Input of water to the reservoirs should be limited to direct flows from Lake Okeechobee to the greatest extent possible. This may necessitate further enhancement of the canals from the Lake to the reservoirs in terms of width and depth to substantially increase their capacity for handling direct Lake flows. At a minimum, it requires express and unequivocal treatment in the operating manual for this project.

(We note that the portion of the Revised Draft Report addressing operational issues was first made available to the public on the Corps' website during the week of April 3, 2006. The City has not had sufficient time to evaluate this new and lengthy document prior to submission of these comments. We believe that an extension of the comment period of at least 30 days is necessary to allow the City and other interested members of the public to adequately review and comment on this key supporting document.)

II. STA Design

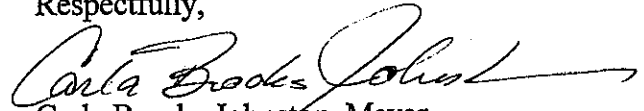
The design of parts of the existing STA-5 to the west of this project have proven, either by careful design or by beneficial accident, to have produced an extraordinarily high quality wading bird and waterfowl habitat. The same combination of diverse grades and water levels, many of which are incorporated in the preferred alternative here, should remain a priority in the Final EIS and in the final as-built design for this project. This will greatly enhance this project's value as wildlife habitat and for recreational use, as well as increasing the economic base for inland counties.

CONCLUSION

The City of Sanibel recognizes the significance of its comments on this project, and is prepared to work with the Corps and the SFWMD to develop a Final EIS that fully satisfies one of the main goals of NEPA -- to fully and fairly assess the impacts of the proposed action in the context of a range of reasonable and feasible alternatives. Along with other commenters, however, the City is concerned that the unwarranted constraint in the scope of the assessment embodied by the Revised Draft Report may result in the selection and design of an alternative that essentially forecloses any possibility of achieving the stated goal of restoring the coastal estuaries. Therefore, a more robust and complete analysis of the project's secondary and cumulative effects must be developed.

Thank you for your serious attention to this important matter. The City of Sanibel stands ready to work with you and your staff to resolve this issue prior to the issuance of a Final EIS. I will be in contact with your office within the next week to discuss this matter more fully. If you have any questions regarding these comments in the meantime, please feel free to contact me at (239) 472-3700.

Respectfully,

A handwritten signature in black ink, appearing to read "Carla Brooks Johnston", written in a cursive style.

Carla Brooks Johnston, Mayor
City of Sanibel

cc: Colonel Robert Carpenter
Lieutenant Colonel Andrew Goetz
Peter Milam
Ms. Carol Wehle
Dr. Peter Doering