



**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

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March 17, 2009

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Colonel Paul Grosskruger  
Army Corp. of Engineers – Jacksonville office  
P.O. Box 4970  
Jacksonville, Florida 32232-0019

Dear Colonel Grosskruger:

I write to you on behalf of Lee County ("the County") concerning the recommendation made by the South Florida Water Management District ("SFWMD") Governing Board to cease the beneficial base flow discharges from Lake Okeechobee to the Caloosahatchee River and Estuary as a consequence of its meeting, on March 12, 2009. Our concerns are the sufficiency of the information upon which the decision was based, the process under which it was made and the implications of the recommendation in the context of the Lake Okeechobee Regulation Schedule ("LORS"). The ecological, technical, economical and legal implications of this "consensus recommendation" are significant and public input on these decisions is crucial for implementation of the LORS by the U.S. Army Corps of Engineers ("Corps").

**Caloosahatchee River and Estuary**

As you are aware, the Southwest Florida watershed comprises over 4,200 square miles and is the centerpiece of a nearly \$2.4 Billion a year tourism industry employing over 44,500 people in Lee County. Harm to the health of the River and Estuary has a direct and significant impact on that economy. The harm that occurs to the Caloosahatchee River and Estuary includes significant increases in salinities and a heightened risk of algal blooms. Not only does this harm impact the overall health of the Estuary, but these conditions limit the County's ability to withdraw its permitted water supply allocation from the Caloosahatchee River.

While we all recognize the difficulty of managing a system as complex as that in South Florida, the Caloosahatchee River and Estuary have been on the receiving end of several key decisions that have caused it significant harm over the last several years. It has literally been a "feast or famine" situation for the Caloosahatchee. After receiving several high discharge events in 2004 and 2005, the Corps undertook a multi-year effort to revise the Lake Okeechobee Regulation Schedule ("LORS") to achieve a more balanced approach to Lake level management.

**Public Process in Reaching Discharge Decision**

While we understand that this was a SFWMD recommendation and process to arrive at it, we do not believe that a full debate occurred on March 12, 2009 at the SFWMD Governing Board meeting. We do not believe the Governing Board was able to deliberate all relevant information regarding the water and ecological conditions in the Everglades & Water Conservation Areas, stormwater treatment areas, Estuaries on both coasts, Lake Okeechobee and water supply risks (not just to the Lower East Coast, but also water supply impacts to Lee County). Only upon a presentation of all of

this information can a meaningful discussion take place regarding these critical regional water management decisions.

### **Lake Okeechobee Regulation Schedule and Discharge Decisions**

This is the first year of implementation for the LORS. Representatives from Lee County have routinely participated with other local governments, State and Federal agencies, as well as other interested parties, to review conditions and make recommendations to the Corps on Lake Okeechobee operations. Up for discussion at this last inter-agency meeting was the continuation of the base flow releases to the Caloosahatchee. The SFWMD staff reported in that meeting that they were going to seek "policy guidance" from the Governing Board on March 12<sup>th</sup> regarding the continuation of that base flow.

The LORS achieves more equity for water bodies receiving Lake Okeechobee discharges such as reducing damaging high water discharge events to the Caloosahatchee. It also improves the ability of the Corps to react to changing conditions in an expedited manner. But, the lower schedule has the potential for more events when the Caloosahatchee is not receiving enough water to meet its established Minimum Flow and Level ("MFL").

In order to combat the effect of the lower schedule on the Caloosahatchee Estuary, when the Lake is in the "Operational Band" at an elevation between 9.7 to 17.25' base flow releases can be made. Starting October 12, 2008, the Caloosahatchee began receiving the base flows and in December of 2008 those base flows were increased to 650 cfs at the S-79 structure. This base flow was included in the LORS because it is pivotal to enable the recovery of the health of seagrasses and oysters and several listed species lost by the previous damage caused by extreme low and high flows. Base flows are also necessary to protect the County's ability to withdraw and supply water from the Caloosahatchee River at the Lee County Utilities Olga Water Treatment Plant.

Within the Operational Band, very dry tributary hydrologic conditions may require that releases to the Estuaries be discontinued. Additionally, a water supply release from Lake Okeechobee to meet water supply demands, including that for salinity control and the environment, may be made at any time within the Operational Band. "Adjustments of the band/sub-band limits" are also permitted in determining releases, to allow flows to gradually increase or decrease between the sub-bands. Immediately ceasing the base flows to the Caloosahatchee would not comport with this transitional concept. As of March 15, 2009, the Lake level was 12.42' still within the range of making a base flow release to the Caloosahatchee. For comparison purposes, at this time last year, the Lake level was 10.18' and the year prior it was 10.93'.

The County fully understands the SFWMD's consultation role in implementing the multiple, and often competing, project purposes and objectives of LORS. We also recognize that this consultation role has limitations in that the Corps will make determinations regarding releases from the Lake if there is interference with Federal project purposes, including water supply and environmental enhancement. Release decisions must take into account the estuaries' biologically-derived ecological conditions and complete estuarine, lake and wetland scientific information on the ecology of these systems must be evaluated.

We are approaching the remainder of the dry season and elevations of 12.42' at this time of the year are not uncommon. For instance, this level is only 0.79' less than that of the simulated average for LORS 2008 (at 13.21'). There is a minimal probability (less than 10% chance) of approaching the point at which the Lake will be in Water Shortage Management by June 1<sup>st</sup> and if we were in the

Water Shortage Management Band, the goal of operations would be to manage the Lake's water supply in accordance with SFWMD rules and guidance. See attached graphic "Lake Okeechobee Water Level History & Projection". Therefore, a move to discontinue the needed base flows to the Caloosahatchee is managing one portion of the Lake's project purposes in anticipation of the absolute worst case scenario. The more likely range of anticipated conditions places the Lake at an elevation of anywhere from 10.5-13.0' by June 1<sup>st</sup>, again within the range of making a base flow release to the Caloosahatchee.

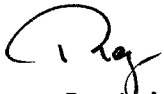
**Information to Form Basis of SFWMD's "Consensus Recommendation"**

We believe the SFWMD's recommendation was based on deficient information regarding the value and import of the Caloosahatchee base flow discharges. There was no information provided by the estuarine scientists regarding the success of the base flow discharges to date or the damage that would occur from stopping them. There was no information provided regarding the water supply implications for the County's Olga Water Treatment Plant.

The only implication of stopping the pulse releases presented was a notation of "MFL exceedances" but this does not reflect the full array of ecological impacts from the decision. Additionally, the Governing Board was told that environmental releases may be "difficult to maintain for 4 months" when in reality the timeframe for continuing environmental releases is less than 3 months. Finally, there was no discussion about the points I have outlined above regarding how the environmental release decisions are arrived at in the context of the LORS. The County firmly believes that the SFWMD has not had a full debate of the impact of discontinuing the pulse releases to the Caloosahatchee.

The LORS provides the necessary operational flexibility and authority to continue base flow releases to the Caloosahatchee River and Estuary. The Corps also has an affirmative obligation to hear from all concerned stakeholders and allow for meaningful public input. The County supports the concept of "shared adversity", however, shared adversity cannot be applied unless, and until, all of the trade-offs involved with the decision are publicly vetted and understood. Then, and only then, can shared adversity be properly applied. We request that the Corps coordinate with the SFWMD and provide a full presentation to the Governing Board of the underlying environmental, scientific and policy implications of this recommendation. Due to the immediate and far reaching implications of this decision, time is of the essence and we request that you resume the base flow discharges to the Caloosahatchee of 650 cfs until a full presentation is made to the SFWMD allowing them to debate the implications of this recommendation. The County is ready to productively assist in any way that we can. Please contact me for any additional information you may need.

Sincerely



Ray Judah, Chairman  
Lee County Board of County Commissioners

# Lake Okeechobee Water Level History & Projection

