APPENDIX B – PERTINENT CORRESPONDENCE

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Proposed Actions to Moderate the Rate of Rise of Water Levels in the Water Conservation Area 3A (WCA-3A)								Interagency Input							
Item Number	Description	Constraints	On July 15	Required Action Items	Effective Option (ac-ft/day)*	Effect on WCA-3A (27 June to 15 July) (ft)	Effect on WCA-3A (6 months) (ft)	FWCC	Miccosukee Tribe	Seminole Tribe	USFWS	ENP	SFWMD	FDEP	FDACS
1	Back Pumping from EAA to Lake Okeechobee via S-2	WCP operating criteria		SFWMD can utilize operational flexibility covered under the existing water control plan	up to 7,100	0.26'	2.59'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.	NO		USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
2	Back Pumping from EAA to Lake Okeechobee via S-3	WCP operating criteria		SFWMD can utilize operational flexibility covered under the existing water control plan	up to 5,100	0.19'	1.86'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.	NO		USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
3	Moderately reduce discharges from WCA-1 to prevent a steep and unnatural recession rate while moderating the rate of rise	Current levels are above Regulation Schedule and also are above the Maximum Water Levels of the Period of Record (POR) stage data		Currently implementing this action	up to 7,000	0.26'	2.55'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
4	Moderately reduce discharges from WCA-2A to prevent a steep and unnatural recession rate while moderating the rate of rise	Current levels are above Regulation Schedule and also are above the Maximum Water Levels of the Period of Record (POR) stage data.		Currently implementing this action	up to 11,000	0.40'	4.01'	WCA2A remains at a record high stage. Reductions in outflow should be matched by reductions in in-flow as much as practicable.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
5	Open S-344	**SAD approval** and 2016 USFWS Biological Opinion requires closure through July 15.	No Constraint	Need USFWS approval and then SAD approval for a deviation from Inc 1.1/1.2 Operational Strategy;	up to 400	0.01'	0.15'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.	YES		USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions		Asked for a deviation until July 15 in a letter dated 6/22/17	FDEP issued EFO on 6/23/2017	
6	Open S-343A and S-343B	**SAD approval** and 2016 USFWS Biological Opinion requires closure through July 15.	No Constraint	Need USFWS approval and then SAD approval for a deviation from Inc 1.1/1.2 Operational Strategy;	up to 800	0.03'	0.29'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.	YES		USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions		Asked for a deviation until July 15 in a letter dated 6/22/17	FDEP issued EFO on 6/23/2017	
7	Open S-12A and S12B	**SAD approval** and 2016 USFWS Biological Opinion requires closure through July 15.	No Constraint	Need USFWS approval and then SAD approval for a deviation from Inc 1.1/1.2 Operational Strategy	up to 800	0.03'	0.29'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.	YES		USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions***Minimize discharge at S-12A and S-12B as much as practical***			FDEP issued EFO on 6/23/2017	
8	Open S-152	**SAD approva**l and FDEP permit		Need SAD approval for a deviation from Inc 1.1/1.2 Operational Strategy and FWCC and FDEP approvals	up to 1,000	0.04'	0.36'	Inflows to WCA3B should be matched by outflows when Site 71 >8.5 NGVD, as much as practicable.	YES		USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
9	Increase discharge at S-332D	S**AD approval** and 2016 USFWS Biological Opinion limits S-332D discharge to 250 cfs from 2/01 to 7/14.	No Constraint	Need USFWS to approve the relaxation of the Sparrow Constraints (Subpopulation C and D) to increase the discharge to 500 cfs and then SAD approval for a deviation from Inc 1.1/1.2 Operational Strategy	up to 500	0.02'	0.18'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
10	Open S-328	NEPA constraint that the L-31W plugs D, E, F need to be in-place prior to operation (scheduled late July); water quality and approved monitoring plan are needed to be in place prior to operating the structure.		It has a dependency on Item 9 (increase discharge at S-332D)	Need further analysis	Need further analysis	Need further analysis	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
11	Increase discharge at S-199	2009 C-111 Spreader Canal Biological Opinion	No Constraint	Need USFWS to approve the relaxation of the Sparrow Constraints (Subpopulation D) and require SFWMD implementation since not covered under the WCP.	up to 450	0.02'	0.16'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions		Asked for a deviation until 6/30/2017	FDEP issued EFO on 6/23/2017	
12	Increase discharge at S-200	2009 C-111 Spreader Canal Biological Opinion	No Constraint	Need USFWS to approve the relaxation of the Sparrow Constraints (Subpopulation C) and require SFWMD implementation since not covered under the WCP.	up to 450	0.02'	0.16'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions		Asked for a deviation until 6/30/2017	FDEP issued EFO on 6/23/2017	
13	Open G-737	2009 C-111 Spreader Canal Biological Opinion	No Constraint	Need USFWS to approve the relaxation of the Sparrow Constraints (Subpopulation C) and require SFWMD implementation since not covered under the WCP. It has a dependency on Item 12 (increase discharge at S-200)				Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions		Asked for a deviation until 6/30/2017	FDEP issued EFO on 6/23/2017	
14	Increase discharge at S-197 up to maximum capacity (2,400 cfs) and allow maximum discharge at S-334 (1,250 cfs) beyond 15 July	**SAD approval** and Increment 1.1 Operational Strategy limits S-197 discharge at this time to 400 cfs		Need SAD approval and FDEP permit for a deviation from Inc 1.1/1.2 Operational Strategy	up to 2,500 (S-334 limit)	0.09'	0.91'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
15	Temporary pumps adjacent to S-355A & B (work in conjuction with S-152)	These are temporary pumps and subject to L-29 Constraint		State Action	up to 800	0.03'	0.29'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts. Support action			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
16	West Feeder/Upper L-28 Canal System	Undefined		Need the Seminole Tribe input	Need further analysis	Need further analysis	Need further analysis	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
17	Tamiami Borrow Canal Culvert - Install Plug	None		DOI Action	No effect	No effect	No effect	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
18	Raise L-29 canal constraint from 7.5' to 7.8' to maximize flows to NE Shark River Slough	C-111 Contract 8 Construction		Contract 8 completion date affected	up to 800	0.03'	0.29'	Use necessary actions to support FDEP Emergency Final Order and minimze detrimental impacts.			USFWS letter on 6/27/2017 recommends proceeding with all Emergency Deviation actions			FDEP issued EFO on 6/23/2017	
					Total of 6 SAD Action Items	0.22'	2.19'								

Note: We are already maximizing discharges to tide from all WCAs provided downstream conveyance is available

** Area of WCA-3A = 494,080 acres*

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re:

EMERGENCY MEASURES DUE TO HIGH WATER CONDITIONS IN SOUTH FLORIDA REGION

OGC No.: 17-0867

_____/

EMERGENCY FINAL ORDER

Under Sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes, and upon consideration of the following findings of fact, the State of Florida Department of Environmental Protection (Department) enters this Emergency Final Order (Order), including the Findings of Fact and Conclusions of Law, in response to high rainfall and flooding in the South Florida Region, specifically the Everglades Protection Area, that threatens certain stormwater management systems, works and impoundments and also poses an imminent or immediate danger to valuable natural resources, the public health, safety or welfare.

FINDINGS OF FACT

1. High rainfall events have occurred across the South Florida Region during the month of June 2017 causing high water conditions and flooding in the Everglades Protection Area, especially in Water Conservation Area 3A.

2. These massive rainfall events and flooding have resulted in water levels in Water Conservation Area 3A rising by more than 2 feet, to 11.02 feet. High water levels inundate tree islands and other wildlife habitats, and if sustained, will cause stress and loss of life particularly for birds and mammals. On June 13, 2017, the Florida Fish and Wildlife Conservation Commission (FWC) issued Order No. EO 17-24 establishing special regulations regarding wildlife in the

Everglades Protection Area. This also poses an immediate threat and impact to valuable natural resources that underpin local economies that surround the Everglades Protection Area. Loss of natural resources will lead to losses in outdoor recreation opportunities, as well as ecotourism and related economic benefits.

3. The Department finds that the rainfall and high-water event described above has created a state of emergency threatening valuable natural resources, as well as, the public health, safety, welfare, and property in the South Florida Region. As a result of the emergency, immediate action is necessary to cope with the emergency situation.

4. The Department has issued permits to the South Florida Water Management District (District) for the following projects: Lake Okeechobee Protection Permit (Permit No. 0174552-011) for the operation and control of 35 water control structures discharging into or from Lake Okeechobee; C-111 Spreader Canal Project (Permit No. 0293559), including the S-199 and S-200 Pump Stations, and the S-737 and S-18C water control structures; Non-Everglades Construction Project Discharge Structures Project (Permit No. 0237803), including the S-344 and S-343 water control structures; S-197 Control Structure Project (Permit No. 0306639), including the S-197 water control structure.

5. The Department has issued permits to the U.S. Army Corps of Engineers (Corps) for the following projects: WCA 3 Decompartmentalization and Sheetflow Enhancement Physical Model Project (Permit No. 0304879), including the S-152 water control structure; Modified Water Deliveries to the Everglades National Park Project (Permit No. 0246512), including the S-355A and S-355B water control structures; Ninth Amended Emergency Final Order to Operate the S-332B, S-332C, S-332D Pump Stations and Appurtenant Structures (OGC Case Nos. 00-0889 and 99-2242).

6. Immediate action is necessary to deviate from permitted water management practices in order to move significant volumes of flood water out of the Water Conservation Areas.

7. Under the current emergency conditions, it is appropriate to temporarily modify operations of the projects and immediately employ any remedial means deemed necessary to redress the emergency.

8. The Corps shall continue water quality and hydrologic monitoring of the existing permitted Corps project features, to identify and evaluate water quality and hydrologic Conditions. The monitoring work provides water quality data associated with state water quality standards and the long-term phosphorus concentration limits contained within the Settlement Agreement to the Federal Everglades lawsuit (Case No. 88-1886), and hydrologic data necessary for the adaptive operation of the pump stations to evaluate the effects on wildlife, water supply and flood protection in the C&SF project.

9. The District shall continue water quality and hydrologic monitoring of the existing permitted District project features, to identify and evaluate water quality and hydrologic conditions. The monitoring work provides water quality data associated with state water quality standards and the long-term phosphorus concentration limits contained within the Settlement Agreement to the Federal Everglades lawsuit (Case No. 88-1886), and hydrologic data necessary for the adaptive operation of the pump stations to evaluate the effects on wildlife, water supply and flood protection in the C&SF project.

CONCLUSIONS OF LAW

10. Based on the findings of fact above, it is hereby concluded that the emergency caused by the high rainfall events and flooding pose an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

11. Under Sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes, the Secretary of the Department, or designee, is authorized to issue this Emergency Final Order.

12. Suspension of statutes and rules as noted within this order is required so as to not prevent, hinder, or delay necessary action that the Department, South Florida Water Management District or the Corps may need to take in coping with the emergency.

THEREFORE, IT IS ORDERED:

13. Based upon the above Findings of Fact and Conclusions of Law, and pursuant to the above cited laws, I hereby order that:

A. The Corps and the District are hereby authorized to make temporary operational changes in order to minimize detrimental impacts (including harmful flooding and degradation of water quality) to the environment, to the public, to adjacent properties, and to downstream receiving water to the greatest extent practicable.

B. Permits described in the Findings of Facts are temporarily modified to authorize relief from the operations permit conditions. All other permit conditions shall remain in full force and effect.

C. The District and Corps are authorized to conduct construction activities necessary to alleviate the emergency conditions. Prior to, or concurrent with, commencing construction activities the District or the Corps shall contact the Office of Ecosystem Projects. Within 30 days of completion of construction, the District or the Corps

shall apply to the Office of Ecosystem Projects for the necessary authorizations. for the necessary authorizations.

D. **General Conditions**

a. The Corps and District shall implement the emergency operation activities in a manner that will minimize detrimental impacts (including harmful flooding and degradation of water quality) to the environment, to the public, to adjacent properties, and to downstream receiving waters to the greatest extent practicable, pursuant to federal law and Sections 373.413 and 373.414, Florida Statutes. The Corps and District shall implement the emergency operation activities in a manner that will maximize beneficial impacts to the environment to the greatest extent practicable consistent with the hydrological and biological restoration goals of the Everglades Forever Act (Section 373.4592, Florida Statutes) and the Florida Bay Restoration Act (Section 373.4593, Florida Statutes). Should any adverse impacts occur from conducting the emergency activities, the Corps and District shall be liable for damages to the extent applicable under federal and state law, respectively.

b. All activities authorized by this Emergency Final Order shall be performed using appropriate best management practices. For activities conducted in or discharging to wetlands or other surface waters, best management practices shall include properly installed and maintained erosion and turbidity control devices, to prevent erosion and shoaling and to control turbidity. These turbidity/erosion controls shall be installed prior to any clearing, excavation or placement of fill material and shall be maintained in an effective condition at all locations until

construction is completed, and disturbed areas are stabilized. The Corps and the District shall be responsible for ensuring that erosion control devices/procedures are inspected/maintained during all phases of construction authorized by this Order. Additional activities, as described in the document entitled, "The Florida Development Manual - A Guide to Sound Land and Water Management" (revised February 1993), shall be conducted as needed to prevent degradation of adjacent wetlands and surface waters, to prevent violations of state water quality standards.

c. If, for any reason, the Corps and/or the District does not comply with any condition or limitation specified in this Emergency Final Order, the Corps and/or the District shall immediately provide the Department's Office of Ecosystem Projects and Southeast District Office with a written report containing the following information: a description and cause of noncompliance; the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue; and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. Reports shall be provided to the above-referenced Department offices at the following addresses:

Florida Department of Environmental Protection
Office of Ecosystem Projects
3900 Commonwealth Boulevard, MS 45
Tallahassee, Florida 32399-3000
Telephone (850) 245-2228

d. This Emergency Final Order does not authorize any entrance upon or activities on property that is not owned or controlled by the Corps and/or the District.

e. The Corps and the District specifically agree to allow authorized Department personnel access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of the Emergency Final Order; to have access to and copy any records that must be kept under conditions of the Emergency Final Order; to inspect the facility, equipment, practices, or operations regulated or required under this Emergency Final Order; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this Emergency Final Order.

f. The Corps and the District are responsible for coordinating the emergency operations with stakeholders including the Department of Interior, the Florida Department of Agriculture and Consumer Services, FWC, and the Miccosukee Tribe of Indians of Florida. Prior to commencement of the emergency operations, the District shall provide information to the Department that documents that this coordination has taken place and that there are no major objections.

g. The Corps and the District shall coordinate with the U.S. Fish and Wildlife Service and FWC to ensure that there will be no adverse impacts to endangered or threatened species as a result of the proposed operations.

E. **Specific Conditions**

a. Monitoring shall be in accordance with all applicable permits and monitoring plans on file with the Department. Monitoring results shall include salinity and ecological monitoring at the S-197 water control structure in accordance with the Appendix C - G-3273 Constraint Relaxation/S-356 Field Test and S-357N Operational Strategy Monitoring Plan. Seepage monitoring results shall include seepage monitoring along the C-111 Canal between the S-176 water control structure and the S-199 Pump Station. All reports and data generated as a result of this monitoring shall be submitted to the Office of Ecosystem Projects (at the address listed above) upon receipt by the Corps and/or the District and within a timely manner.

b. Activities shall be closely monitored to maximize intended benefit and avoid unintended consequences. Close coordination with the Department and stakeholders shall be maintained to address any potential water quality, flood protection, and environmental resource issues in a timely fashion. To this end, the Corps and the District will submit an Emergency Operations After Action Report as soon as practicable after cessation of all emergency operations to the addresses listed above. The report shall include details of operation activities, pumping dates and times, volume of water pumped, gauge readings, flow measurements, flow direction and other visual observations, seepage monitoring results, water quality monitoring results (including provisional data), and a comparison with previous years' data and results.

F. **Suspension of Statutes and Rules**

The following provisions of permits, statutes and rules are hereby suspended for the activities authorized by this Order for the duration of this Order:

a. For those activities noted above, subject to the limitations, duration and other provisions of this Order, all requirements for permits, leases, consents of use or other authorizations under Chapters 253, 373, 376 and 403, Florida Statutes, and rules adopted thereunder.

b. Notice requirements of Sections 253.115, and 373.413, Florida Statutes, and rules 18-21, 62-4, and 62-312 of the Florida Administrative Code; and,

c. Application fee, lease fee, and easement fee requirements of Sections 373.109, Florida Statutes, and Rules 18-21, and 62-4 of the Florida Administrative Code.

14. Nothing in this Emergency Final Order shall eliminate the necessity for obtaining any other federal, state, water management district, or local permits or other authorizations that may be required.

15. Adverse Off-Site Impacts

a. The Corps and the District shall ensure that adverse off-site water resource related impacts do not occur as a result of this Emergency Final Order and shall fully monitor conditions related to the activities authorized by this order.

b. The correction of any erosion, shoaling, water quality, or flooding problems that result from the operation of the structures authorized by this order shall be the sole responsibility of the Corps and the District. In addition, the Corps and the District shall immediately resolve such problems to the Department' s satisfaction.

c. If any adverse water quality, water quantity, or other negative environmental impacts occur as a result of this Emergency Final Order, the Department reserves the right to immediately revoke or modify this authorization upon written notice.

16. The Department's immunity from liability under Section 373.443, Florida Statutes, for any damages that might result from the activities authorized by this Emergency Final Order shall not be diminished by the terms of this order or any activities taken pursuant to this order.

17. The Department waives water quality certification for those activities authorized by this Emergency Final Order.

18. Failure to comply with the conditions set forth in this Emergency Final Order shall constitute a violation of a Department Final Order under Chapters 373, 376, and 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

19. This Emergency Final Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on November 30, 2017, unless rescinded, modified or extended by further order of the Department.

NOTICE OF RIGHTS

Any person to whom this emergency order is directed may petition the Department for a hearing in accordance with Section 373.119, Florida Statutes.

Pursuant to Section 120.569(2)(n), F.S., any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review of it under Section 120.68, F.S. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a

copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 23 day of June 2017, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

for Noah Valenstein, Secretary

3900 Commonwealth Blvd.
Tallahassee, Florida 32399-3000

FILED on this date, pursuant to § 120.52,
F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk Date: 06/23/2017

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

June 23, 2017

Colonel Jason A. Kirk
District Commander, Jacksonville District
U.S. Army Corps of Engineers
CESAJ-DE
701 San Marco Boulevard
Jacksonville, FL 32207-8175

Subject: Deviation to use S-200 and S-199 Pump Stations and G-737 Structure until June 30, 2017

Dear Colonel Kirk:

The South Florida Water Management District (SFWMD) is requesting the use of S-200 and S-199 Pump Stations and the G-737 Structure to manage water levels in the C-111 Canal to support high water relief efforts for WCA-3A. This deviation request will expire on June 30, 2017, at which time the features will operate in accordance with the permit conditions. The SFWMD plans to meet regularly (e.g., weekly) with US Fish and Wildlife Service to communicate operations and discuss the system response until the deviation has ceased.

Please contact me at 561-682-2679 if you have any questions.

Sincerely,

John P. Mitnik, P.E.
Chief District Engineer

JPM/bm

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

June 22, 2017

Colonel Jason A. Kirk
District Commander, Jacksonville District
U.S. Army Corps of Engineers
CESAJ-DE
701 San Marco Boulevard
Jacksonville, FL 32207-8175

Subject: Deviation to use S-344 and S-343 A&B until July 15, 2017 with Rehabilitated L-28 Plugs

Dear Colonel Kirk:

The South Florida Water Management District (SFWMD) is requesting the use of S-344 and S-343 A&B to provide additional high water relief to WCA-3A. This deviation request to operate the S-344 and S-343 A&B will expire on July 15, 2017. The SFWMD plans to meet regularly (e.g., weekly) with US Fish and Wildlife Service to communicate operations and discuss the system response.

Background information and the operation details for the use of S-344 and S-343 A&B are provided in the attached operational strategy.

Please contact me at 561-682-2679 if you have any questions.

Sincerely,

John P. Mitnik, P.E.
Chief District Engineer
Operations, Engineering, and Construction

JPM/bm
Attachment

Cc: Drew Bartlett, FDEP

S-344 and S-343 A&B OPERATION STRATEGY

NORMAL USE AND PROPOSED USE OF S-344 and S-343 A&B

S-344 and S-343 A&B are normally closed. The normal operational criteria for S-344 and S-343 A&B are to open them when the available capacity of S-333, S-12D, S-12C, S-12B, and S-12A is insufficient to provide the discharges prescribed by WCA 3A's Rainfall Plan. The combined discharges through S-343A, S-343B, and S344 are reduced as required to maintain the Loop Road 1 gauge (LOOP1) below 8.5 feet NGVD29 (closed when LOOP1 above 8.5 feet NGVD 29 under normal conditions). The proposed criteria ensure full operational flexibility to partially or completely open S-344 and S-343 A&B until July 15, 2017.

OPERATIONAL CRITERIA:

The SFWMD, as the operator of S-344 and S-343 A&B, has full flexibility in opening S-344 and S-343 A&B to provide high water relief to WCA-3A. Rehabilitation of the plugs downstream of S-344 and S-343 A&B was completed in 2016.

STRUCTURE CLOSINGS:

Closing of the gates on S-344 and S-343 A&B will begin when one or more following conditions are met:

1. The Loop Road gauge 1 (LOOP1) exceeds 8.5 feet NGVD 29.
2. If there is a meaningful reversal in the water level recession at identified sparrow target location(s) not induced by rainfall in the area.
3. Regular coordination for ongoing operations results in a request to adjust operations.

There are ten bridges or culverts through Tamiami Trail (State Road 41) from where Loop Road connects to Tamiami Trail to about 4 miles west along Tamiami Trail. There are approximately six bridges or culverts through Loop Road from where Loop Road connects to Tamiami Trail extending 4 miles west. These bridges and culverts allow some of the flow discharged from S-344 to flow south into the region that contains CSSS Sub-Population A. Flow and stage at the following locations along Tamiami Trail (SR41) will be monitored to provide representative information on the flow south and provide early indication of undesirable flow south towards the Cape Sable Seaside Sparrow Sub-Population A.

- The bridge allowing flow through Tamiami Trail which is located about 0.6 miles along Tamiami Trail northwest of S343A.
- The culvert/bridge allowing flow through Tamiami Trail which is near/across from S-343A.
- The bridge allowing flow through Tamiami Trail which is located about 0.6 miles along Tamiami Trail southeast of S343A.

The sites will be monitored at least weekly. S-343A tailwater will be used to indicate stage changes. The SFWMD will meet regularly (e.g., weekly) with FWS to communicate operations and discuss the system response. It is expected that conditions will change over the duration of this deviation and that FWS will adaptively evolve the criteria. The SFWMD will respond to operation direction from the FWS or USACE within 72 hours.

From:	Stahl, Chris
To:	Ralph, Gina P CIV USARMY CESAJ (US)
Cc:	Powell, Frank; Moore, Brooks W CIV USARMY CESAJ (US); LoSchiavo, Andrew J CIV USARMY CESAJ (US)
Subject:	[Non-DoD Source] RE: CZMA for Temporary Deviation to Alleviate high water levels within WCA 3A (UNCLASSIFIED)
Date:	Monday, June 26, 2017 1:20:29 PM

Gina,

I agree with your determination that the Environmental Assessment and proposed FONSI for your deviation request is consistent to the maximum extent practicable with Florida's Coastal Management Program. You are clear to proceed as needed.

Sincerely,

Chris Stahl

Chris Stahl, Coordinator
Florida State Clearinghouse
Florida Department of Environmental Protection
2600 Blair Stone Road, M.S. 47
Tallahassee, FL 32399-2400
ph. (850) 717-9076
State.Clearinghouse@dep.state.fl.us

-----Original Message-----
From: Ralph, Gina P CIV USARMY CESAJ (US) [mailto:Gina.P.Ralph@usace.army.mil]
Sent: Monday, June 26, 2017 12:03 PM
To: Stahl, Chris <Chris.Stahl@dep.state.fl.us>
Cc: Powell, Frank <Frank.Powell@dep.state.fl.us>; Moore, Brooks W CIV USARMY CESAJ (US) <Brooks.W.Moore@usace.army.mil>; LoSchiavo, Andrew J CIV USARMY CESAJ (US) <Andrew.J.Loschiavo@usace.army.mil>
Subject: CZMA for Temporary Deviation to Alleviate high water levels within WCA 3A (UNCLASSIFIED)
Importance: High

CLASSIFICATION: UNCLASSIFIED

Chris,

Thank you for your time today to discuss the Corps' intent to implement a temporary deviation from our approved 2012 Water Control Plan. As indicated, the U.S. Army Corps of Engineers, Jacksonville District (Corps) is seeking a temporary deviation from the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park Project Increment Plus Operational Strategy in order to provide relief from high water stages within Water Conservation Area (WCA)1, WCA-2A, and WCA-3A until the WCA-3A 3-station gauge average falls below Zone A of the WCA 3A Regulation Schedule or October 31, 2017, whichever comes first.

A series of early wet season storms that have occurred since June 5, 2017 have caused hydrologic conditions within the Central & South Florida Project to change very rapidly from very dry conditions to very wet conditions within south Florida, with the WCAs along with the Everglades Agricultural Area accumulating most of the rainfall. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year.

The Corps has completed an Environmental Assessment and Proposed FONSI that will accompany our deviation request to the Corps South Atlantic Division (SAD) for approval. Once SAD approves, Jacksonville District plans to

sign the FONSI and post for public notification and comment for a period of 30 days. Due to the nature and immediate need for this deviation, we are not able to solicit public comment prior to signature. The Corps will determine the need for a supplemental EA once we have received public comment and the temporary deviation has expired.

The Florida Department of Environmental Protection issued the attached Emergency Final Order waiving water quality certification. The Corps has determined that the proposed deviation is consistent to the maximum extent practicable with Florida's Coastal Management Program (FCMP). Please let me know if FDEP has a different position regarding compliance with the Coastal Zone Management Act as administered by the State's FCMP. I will provide the EA/FONSI once completed. Please let me know if you have any questions.

Thank you,
Gina

Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch
Planning Division
US Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019
(904) 232-2336
Gina.P.Ralph@usace.army.mil

CLASSIFICATION: UNCLASSIFIED
[Dep Customer Survey]<Blockedhttp://survey.dep.state.fl.us/?refemail=Chris.Stahl@dep.state.fl.us>

From:	Ralph, Gina P CIV USARMY CESAJ (US)
To:	"chris.stahl@dep.state.fl.us"
Cc:	Powell, Frank; Moore, Brooks W CIV USARMY CESAJ (US); LoSchiavo, Andrew J CIV USARMY CESAJ (US)
Subject:	CZMA for Temporary Deviation to Alleviate high water levels within WCA 3A (UNCLASSIFIED)
Date:	Monday, June 26, 2017 12:02:00 PM
Attachments:	Non-DoD Source EFO High Water Event - FINAL 06-23-2017.msg
Importance:	High

CLASSIFICATION: UNCLASSIFIED

Chris,

Thank you for your time today to discuss the Corps' intent to implement a temporary deviation from our approved 2012 Water Control Plan. As indicated, the U.S. Army Corps of Engineers, Jacksonville District (Corps) is seeking a temporary deviation from the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park Project Increment Plus Operational Strategy in order to provide relief from high water stages within Water Conservation Area (WCA)1, WCA-2A, and WCA-3A until the WCA-3A 3-station gauge average falls below Zone A of the WCA 3A Regulation Schedule or October 31, 2017, whichever comes first.

A series of early wet season storms that have occurred since June 5, 2017 have caused hydrologic conditions within the Central & South Florida Project to change very rapidly from very dry conditions to very wet conditions within south Florida, with the WCAs along with the Everglades Agricultural Area accumulating most of the rainfall. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year.

The Corps has completed an Environmental Assessment and Proposed FONSI that will accompany our deviation request to the Corps South Atlantic Division (SAD) for approval. Once SAD approves, Jacksonville District plans to sign the FONSI and post for public notification and comment for a period of 30 days. Due to the nature and immediate need for this deviation, we are not able to solicit public comment prior to signature. The Corps will determine the need for a supplemental EA once we have received public comment and the temporary deviation has expired.

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Thank you,
Gina

Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch
Planning Division
US Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019
(904) 232-2336
Gina.P.Ralph@usace.army.mil

CLASSIFICATION: UNCLASSIFIED

From:	Ralph, Gina P CIV USARMY CESAJ (US)
To:	"Jamie Higgins"
Cc:	"Harper, Cecelia"; LoSchiavo, Andrew J CIV USARMY CESAJ (US); Moore, Brooks W CIV USARMY CESAJ (US)
Subject:	NEPA to support a Temporary Deviation (UNCLASSIFIED)
Date:	Monday, June 26, 2017 11:16:00 AM
Attachments:	Non-DoD Source EFO High Water Event - FINAL 06-23-2017.msg
Importance:	High

CLASSIFICATION: UNCLASSIFIED

Jamie,

Thank you for your time today to discuss the Corps' intent to implement a temporary deviation from our approved 2012 Water Control Plan. As indicated, the U.S. Army Corps of Engineers, Jacksonville District (Corps) is seeking a temporary deviation from the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park Project Increment Plus Operational Strategy in order to provide relief from high water stages within Water Conservation Area (WCA)1, WCA-2A, and WCA-3A until the WCA-3A 3-station gauge average falls below Zone A of the WCA 3A Regulation Schedule or October 31, 2017, whichever comes first.

A series of early wet season storms that have occurred since June 5, 2017 have caused hydrologic conditions within the Central & South Florida Project to change very rapidly from very dry conditions to very wet conditions within south Florida, with the WCAs along with the Everglades Agricultural Area accumulating most of the rainfall. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year.

The Corps has completed an Environmental Assessment and Proposed FONSI that will accompany our deviation request to the Corps South Atlantic Division (SAD) for approval. Once SAD approves, Jacksonville District plans to sign the FONSI and post for public notification and comment for a period of 30 days. Due to the nature and immediate need for this deviation, we are not able to solicit public comment prior to signature. The Corps will determine the need for a supplemental EA once we have received public comment and the temporary deviation has expired.

The Florida Department of Environmental Protection issued the attached Emergency Final Order waiving water quality certification. The Corps has determined that the proposed deviation is consistent to the maximum extent practicable with Florida's Coastal Management Program. I will provide the EA/FONSI once completed. Please let me know if you have any questions.

Thank you,
Gina

Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch
Planning Division
US Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019
(904) 232-2336
Gina.P.Ralph@usace.army.mil

CLASSIFICATION: UNCLASSIFIED

Ralph, Gina P CIV USARMY CESAJ (US)

From: Higgins, Jamie <Higgins.Jamie@epa.gov>
Sent: Tuesday, June 27, 2017 7:41 AM
To: Ralph, Gina P CIV USARMY CESAJ (US)
Cc: Harper, Cecelia; LoSchiavo, Andrew J CIV USARMY CESAJ (US); Moore, Brooks W CIV USARMY CESAJ (US); Higgins, Jamie; Militscher, Chris; Mancusi-Ungaro, Philip
Subject: [Non-DoD Source] RE: NEPA to support a Temporary Deviation (UNCLASSIFIED)

Gina,
EPA appreciates the early coordination and looks forward to reviewing the EA. Please let us know if we can provide further assistance.
Thanks,
Jamie

Jamie Higgins
EPA Region 4
NEPA Program Office
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
404-562-9681
Higgins.jamie@epa.gov

-----Original Message-----
From: Ralph, Gina P CIV USARMY CESAJ (US) [mailto:Gina.P.Ralph@usace.army.mil]
Sent: Monday, June 26, 2017 11:17 AM
To: Higgins, Jamie <Higgins.Jamie@epa.gov>
Cc: Harper, Cecelia <Harper.Cecelia@epa.gov>; LoSchiavo, Andrew J CIV USARMY CESAJ (US) <Andrew.J.Loschiavo@usace.army.mil>; Moore, Brooks W CIV USARMY CESAJ (US) <Brooks.W.Moore@usace.army.mil>
Subject: NEPA to support a Temporary Deviation (UNCLASSIFIED)
Importance: High

CLASSIFICATION: UNCLASSIFIED

Jamie,

Thank you for your time today to discuss the Corps' intent to implement a temporary deviation from our approved 2012 Water Control Plan. As indicated, the U.S. Army Corps of Engineers, Jacksonville District (Corps) is seeking a temporary deviation from the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park Project Increment Plus Operational Strategy in order to provide relief from high water stages within Water Conservation Area (WCA)1, WCA-2A, and WCA-3A until the WCA-3A 3-station gauge average falls below Zone A of the WCA 3A Regulation Schedule or October 31, 2017, whichever comes first.

A series of early wet season storms that have occurred since June 5, 2017 have caused hydrologic conditions within the Central & South Florida Project to change very rapidly from very dry conditions to very wet conditions within south Florida, with the WCAs along with the Everglades Agricultural Area accumulating most of the rainfall. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year.

The Corps has completed an Environmental Assessment and Proposed FONSI that will accompany our deviation request to the Corps South Atlantic Division (SAD) for approval. Once SAD approves, Jacksonville District plans to sign the FONSI and post for public notification and comment for a period of 30 days. Due to the nature and immediate need for this deviation, we are not able to solicit public comment prior to signature. The Corps will determine the need for a supplemental EA once we have received public comment and the temporary deviation has expired.

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Thank you,
Gina

Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch
Planning Division
US Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019
(904) 232-2336
Gina.P.Ralph@usace.army.mil

CLASSIFICATION: UNCLASSIFIED

From: Moreno, Meredith A CIV USARMY CESAJ (US)
To: "Bradley Mueller"
Subject: 2017 Temporary Deviation WCA 3 and ENP
Date: Monday, June 26, 2017 12:57:00 PM
Attachments: Attachment 1.jpg
Attachment 2.jpg
EFO High Water Conditions South Florida 17-0867.pdf

Brad,

In summary of our conversation this morning, the U.S. Army Corps of Engineers, Jacksonville District (Corps), is preparing an Environmental Assessment associated with a temporary deviation of the 2012 Water Control Plan and the MWD Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). A series of early wet season storms have occurred since June 5, 2017 causing water levels in the three WCAs to rise above their maximum regulation schedule and the maximum exceedance elevations per the Water Control Plan. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year (Attachment 1). These high water levels in the WCAs at the beginning of the wet season threaten wildlife and tree islands, particularly in WCA-3A. If the rate of the rise of water is not mitigated to limit the prolonged duration of high water conditions, there is the potential for these high water levels to pose significant environmental risks due to reduced flood storage as the wet season and hurricane season continue.

Therefore, immediate action is necessary to deviate from permitted water management practices to move flood water out of the WCAs and subsequently provide more water storage and water movement opportunities. The following are the proposed water management actions to achieve high water relief in the WCAs (Attachment 2):

1) Open S-12A, S-12B, S-343A, S-343B and S-344 prior to official opening date of July 15, 2017;
2) Open S-152 to discharge water from WCA-3A to WCA-3B;
3) Increase discharge at S-332D from 250 cfs to 500 cfs to increase discharge from WCA 3A to the South Dade Conveyance S using S-333 and S-334, if needed; and
4) Increase the discharge at S-197 to 600 cfs from the current maximum release of 400 cfs to accommodate additional flows from WCA 3A to the SDCS using S-333 and S-334 while retaining capacity to manage local basin runoff.

The proposed water management actions described above would be implemented until the WCA-3A three-station gage average falls below Zone A (per the Water Control Plan) or until 30 November, whichever comes first. Gage restrictions in WCA 3B and at the L-29 canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources. The proposed action is expected to increase water deliveries from WCA 3A to ENP and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action. Potential losses in tree islands may occur as a result of high water levels in the WCAs if the proposed action is not taken.

Based on the temporary nature and short duration of the project, the Corps believes that this will have no adverse effects on historic properties listed or eligible for listing in the National Register of Historic Places. In addition, the Site 71/SRS-1 gage restriction, the L-29 stage limit of 7.5-7.8 ft NGVD, and monitoring of tree islands pursuant to the ERTP Programmatic Agreement will continue throughout the deviation to ensure no adverse effect to cultural resources. Pursuant to the National Environmental Policy Act and Section 106 of the National Historic Preservation Act (16 USC 470) and it's implementing regulations (36 CFR 800), the Corps kindly requests your comments on the determination of no adverse effect. Due to the nature of this emergency, the Corps is requesting an expedited consultation process. Please feel free to call or email with any questions or concerns.

Kind regards,

Meredith A. Moreno, M.A., RPA
Archaeologist
Planning Division, Environmental Branch
Jacksonville District, US Army Corps of Engineers

Office: 904-232-1577
Mobile: 904-861-9967

From: Parsons, Timothy A.
To: Moreno, Meredith A CIV USARMY CESAJ (US)
Cc: Aldridge, Jason H.
Subject: [Non-DoD Source] RE: 2017 Temporary Deviation WCA3 and ENP
Date: Monday, June 26, 2017 1:05:30 PM

Meredith,

Thank you for the detailed information. The Florida SHPO concurs with the Corps' determination of 'no adverse effect' for this emergency deviation. The consultation has been recorded as DHR number 2017-3146.

Best,
Tim

Timothy A. Parsons, Ph.D., RPA
Division Director | State Historic Preservation Officer
Division of Historical Resources | Florida Department of State
500 South Bronough Street | Tallahassee, Florida 32399
Office: 850.245.6306 | Mobile: 850.519.4373 | dos.myflorida.com/historical

-----Original Message-----
From: Moreno, Meredith A CIV USARMY CESAJ (US) [mailto:Meredith.A.Moreno@usace.army.mil]
Sent: Monday, June 26, 2017 12:59 PM
To: Parsons, Timothy A. <Timothy.Parsons@dos.myflorida.com>
Cc: Aldridge, Jason H. <Jason.Aldridge@dos.myflorida.com>
Subject: 2017 Temporary Deviation WCA3 and ENP

Tim,

In summary of our conversation this morning, the U.S. Army Corps of Engineers, Jacksonville District (Corps), is preparing an Environmental Assessment associated with a temporary deviation of the 2012 Water Control Plan and the MWD Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). A series of early wet season storms have occurred since June 5, 2017 causing water levels in the three WCAs to rise above their maximum regulation schedule and the maximum exceedance elevations per the Water Control Plan. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year (Attachment 1). These high water levels in the WCAs at the beginning of the wet season threaten wildlife and tree islands, particularly in WCA-3A. If the rate of the rise of water is not mitigated to limit the prolonged duration of high water conditions, there is the potential for these high water levels to pose significant environmental risks due to reduced flood storage as the wet season and hurricane season continue.

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3)Increase discharge at S-332D from 250 cfs to 500 cfs to increase discharge from WCA 3A to the South Dade Conveyance S using S-333 and S-334, if needed; and
4)Increase the discharge at S-197 to 600 cfs from the current maximum release of 400 cfs to accommodate additional flows from WCA 3A to the SDCS using S-333 and S-334 while retaining capacity to manage local basin runoff.

The proposed water management actions described above would be implemented until the WCA-3A three-station

gage average falls below Zone A (per the Water Control Plan) or until 30 November, whichever comes first. Gage restrictions in WCA 3B and at the L-29 canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources. The proposed action is expected to increase water deliveries from WCA 3A to ENP and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action. Potential losses in tree islands may occur as a result of high water levels in the WCAs if the proposed action is not taken.

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Kind regards,

Meredith A. Moreno, M.A., RPA
Archaeologist
Planning Division, Environmental Branch
Jacksonville District, US Army Corps of Engineers
Office: 904-232-1577
Mobile: 904-861-9967

From: Moreno, Meredith A CIV USARMY CESAJ (US)
To: "Del Bene, Penelope"
Subject: 2017 Temporary Deviation WCA 3 and ENP
Date: Monday, June 26, 2017 1:00:00 PM
Attachments: Attachment 1.jpg
Attachment 2.jpg
EFO High Water Conditions South Florida 17-0867.pdf

Penny,

In summary of the voicemail I left on Friday, June 23 and Monday, June 26, the U.S. Army Corps of Engineers, Jacksonville District (Corps), is preparing an Environmental Assessment associated with a temporary deviation of the 2012 Water Control Plan and the MWD Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). A series of early wet season storms have occurred since June 5, 2017 causing water levels in the three WCAs to rise above their maximum regulation schedule and the maximum exceedance elevations per the Water Control Plan. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year (Attachment 1). These high water levels in the WCAs at the beginning of the wet season threaten wildlife and tree islands, particularly in WCA-3A. If the rate of the rise of water is not mitigated to limit the prolonged duration of high water conditions, there is the potential for these high water levels to pose significant environmental risks due to reduced flood storage as the wet season and hurricane season continue.

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2) Open S-152 to discharge water from WCA-3A to WCA-3B;
3) Increase discharge at S-332D from 250 cfs to 500 cfs to increase discharge from WCA 3A to the South Dade Conveyance S using S-333 and S-334, if needed; and
4) Increase the discharge at S-197 to 600 cfs from the current maximum release of 400 cfs to accommodate additional flows from WCA 3A to the SDCS using S-333 and S-334 while retaining capacity to manage local basin runoff.

The proposed water management actions described above would be implemented until the WCA-3A three-station gage average falls below Zone A (per the Water Control Plan) or until 30 November, whichever comes first. Gage restrictions in WCA 3B and at the L-29 canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources. The proposed action is expected to increase water deliveries from WCA 3A to ENP and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action. Potential losses in tree islands may occur as a result of high water levels in the WCAs if the proposed action is not taken.

Based on the temporary nature and short duration of the project, the Corps believes that this will have no adverse effects on historic properties listed or eligible for listing in the National Register of Historic Places. In addition, the Site 71/SRS-1 gage restriction, the L-29 stage limit of 7.5-7.8 ft NGVD, and monitoring of tree islands pursuant to the ERTP Programmatic Agreement will continue throughout the deviation to ensure no adverse effect to cultural resources. Pursuant to the National Environmental Policy Act and Section 106 of the National Historic Preservation Act (16 USC 470) and it's implementing regulations (36 CFR 800), the Corps kindly requests your comments on the determination of no adverse effect. Due to the nature of this emergency, the Corps is requesting an expedited consultation process. Please feel free to call or email with any questions or concerns.

Kind regards,

Meredith A. Moreno, M.A., RPA
Archaeologist
Planning Division, Environmental Branch

Jacksonville District, US Army Corps of Engineers
Office: 904-232-1577
Mobile: 904-861-9967

United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

June 27, 2017

Jason A. Kirk, P.E.
Colonel, US Army
U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, Florida 32207-8175

Dear Colonel Kirk:

The U.S. Fish and Wildlife Service (Service) has reviewed the U.S. Army Corps of Engineers' (Corps), Jacksonville District, request for emergency consultation and the associated deviations in letters dated June 22, 2017; June 26, 2017; and e-mail dated June 26, 2017. Additionally, we reviewed the South Florida Water Management District's (District) request dated June 22, 2017, and the State of Florida's Emergency Order dated June 23, 2017. We also acknowledge the two telephone conversations you and I have had in the past 24 hours wherein you explained the Corps now considers this high water emergency as a risk to human health and safety.

Our recommendation to the Corps is to proceed with all the emergency deviations and actions described in these letters; however, we request you minimize, as much as practical, flows going through the S-12A and S-12B structures. Critically endangered Cape Sable seaside sparrows (CSSS) are actively nesting immediately downstream of these structures and allowing those nests to succeed will help this species recover.

The Corps determined that the proposed emergency actions may affect, but are not likely to adversely affect the Everglade snail kite, wood stork, and CSSS. The Service concurs with the Corps' determination for the Everglade snail kite and wood stork. However, since there is documented nesting occurring within CSSS subpopulation A, and increased water levels within the habitat are likely to adversely affect nesting birds, nestlings, and eggs, the Service is not able to concur with the "not likely to adversely affect" determination for CSSS. However, we have determined these actions will not result in jeopardy to the CSSS because their population appears to have increased slightly this year and the minimum target of 90 dry nesting days has been met in all subpopulations this year.

We recognize the need for the Corps and other agencies to take immediate action, and in keeping with our emergency consultation policy, we will complete formal consultation after the fact. In the meantime, if you have any questions regarding this project, please contact Donald Progulske at 772-469-4299 or by e-mail at Donald_Progulske@fws.gov.

Sincerely,

Larry Williams,
State Supervisor, Ecological Services

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

JUN 22 2017

REPLY TO
ATTENTION OF

Operations Division

Mr. Larry Williams
State Supervisor
U.S. Fish and Wildlife Service
1339 20th Street
Vero Beach, FL 32960

Dear Mr. Williams:

The U.S. Army Corps of Engineers (Corps), Jacksonville District, requests U.S. Fish and Wildlife Service (FWS) concurrence to open the S-12A, S-12B, S-343A, S-343B, and S-344 structures at the earliest opportunity prior to July 15, 2017 to reduce stages in Water Conservation Area (WCA) 3A. In addition, the Corps further requests to remove the 250 cubic feet per second (cfs) constraint on the S-332D pump station and allow pumping up to 500 cfs prior to July 15, 2017 to further facilitate reduction in stages in WCA 3A.

It is also important to note that the Corps met the 2016 Everglades Restoration Transition Plan (ERTP) Biological Opinion (BO) nesting window target during the 2017 Cape Sable Seaside Sparrow breeding season. Furthermore, the EDEN Sparrow Viewer indicates that less than 5% of CSSS-Ax habitat is available for breeding, and the South Florida Water Management District positional analysis projections for stage levels at NP-205 indicate a zero percent probability of water stages receding below ground for the remainder of the 2017 wet season based on the historical simulated rainfall period of record (1965-2005).

The Corps evaluated the current and forecasted conditions in the attached analysis (Enclosures 1 and 2), supporting the determination that the S-12A and S-12B structures would probably overtop on or before July 9, 2017. In order to avoid overtopping, which will trigger a limited gate opening sufficient to prevent the gate overtopping condition for the applicable structure(s), the Corps would need to open these structures prior to the projected July 9th date. The Corps has currently maximized outflows from WCA 3A as well as limited inflows to the extent practicable given conditions within the upstream basins. Other steps the Corps is implementing to reduce stages in WCA 3A include maximizing discharge through S-12C, S-12D, S-333, S-334, and S-151, and maximizing discharges to tide from each of the WCAs. Despite implementation of these steps,

WCA 3A is projected to continue to rise and reach the top of the S-12A and S-12B slide gates at elevation 11.0 ft, NGVD around July 9, 2017.

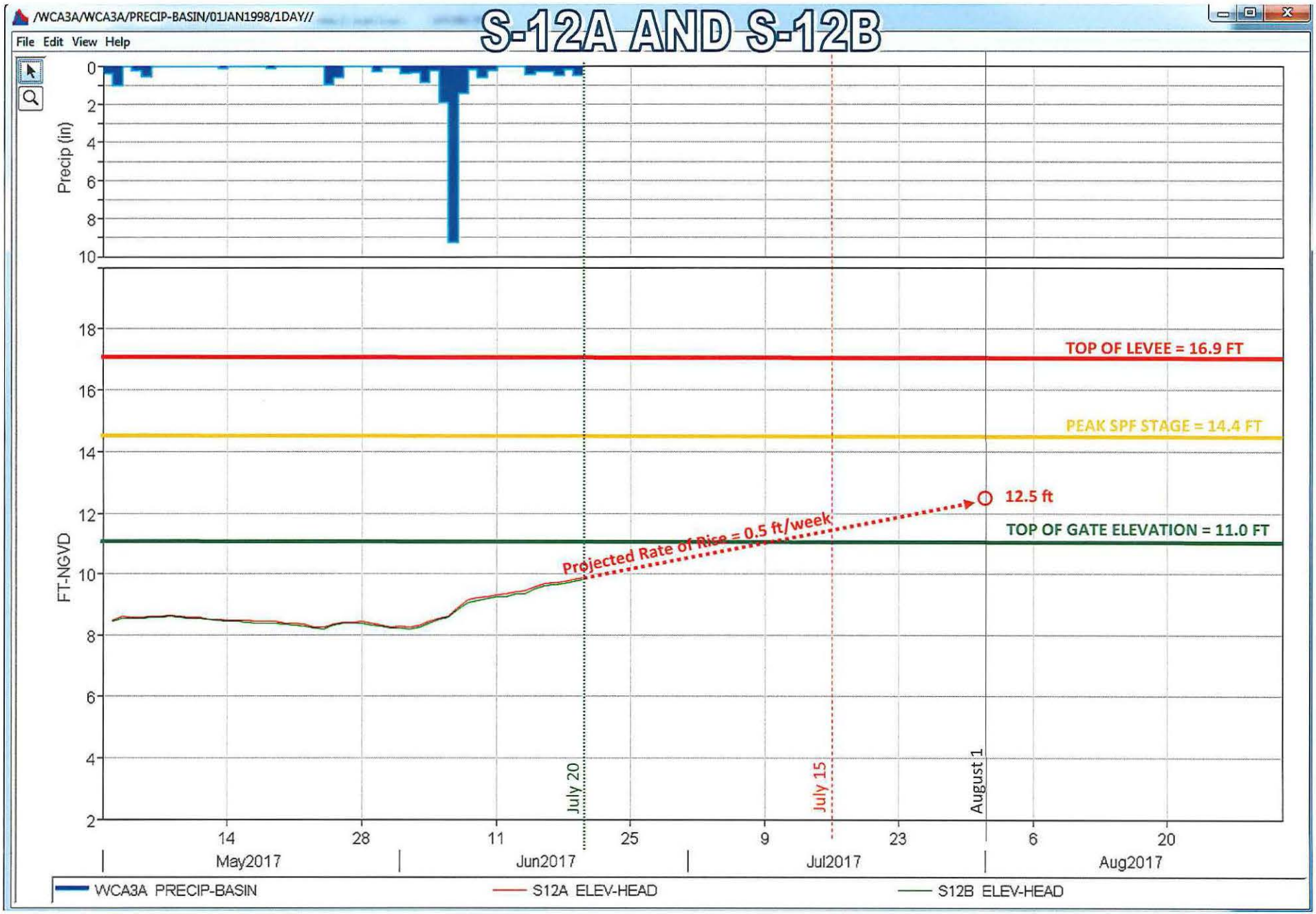
The Corps recognizes the commitments made within the 2016 ERTP BO and remains committed to implementation of the Reasonable and Prudent Alternative (RPA). One such commitment is to complete construction of the Canal 111 (C-111) South Dade and 8.5 Square Mile Area projects. Completion of these critical construction components will allow implementation of the 2016 BO RPA to include the Modified Water Deliveries (MWD) Increment 2 and MWD Increment 3 Combined Operations Plan in accordance with the schedule identified in the RPA. In order to facilitate ongoing construction efforts through July 2017 to the maximum extent practical, the Corps will maintain water elevations within the C-111 South Dade and 8.5 Square Mile Area construction footprints at or below stage levels corresponding to the Increment 1.1 maximum operating limit of 7.5 feet NGVD in the L-29 Canal. In light of this constraint, the remaining options to further reduce stages within WCA 3A are to remove the seasonal closure constraints on the S-12A, S-12B, S-343A, S-343B, S-344 and S-332D structures.

To ensure successful implementation of this request, my Water Management Section team members will continue weekly coordination with your staff. Should you have any questions, please contact me or have your staff contact Mr. Luis Alejandro, Chief, Water Management Section at (904) 232-3034.

Sincerely,

Jason A. Kirk, P.E.
Colonel, U. S. Army
District Commander

2 Encls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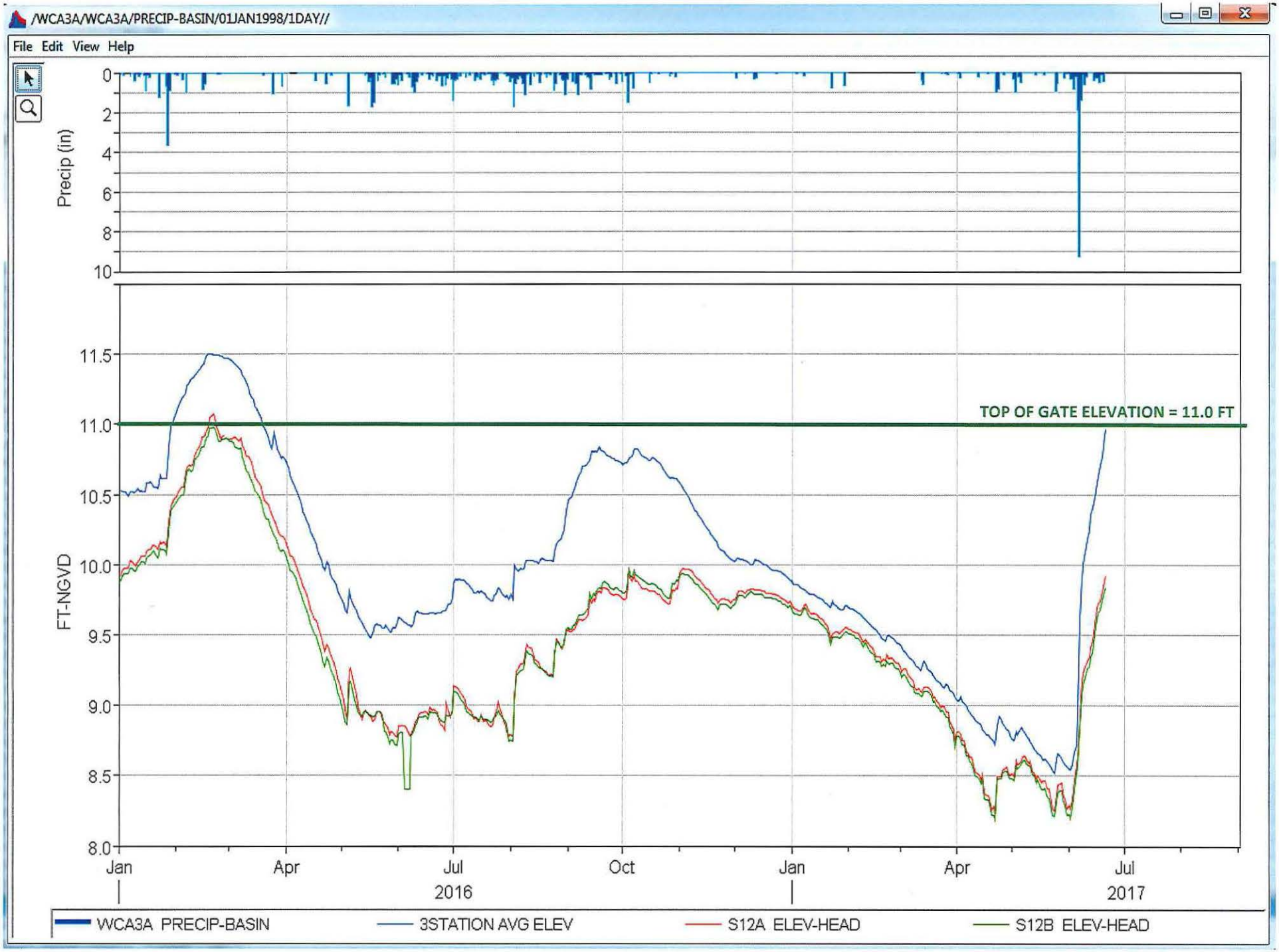
File Edit View Help
S-12A AND S-12B
Precip (in)
0
2
4
6
8
10
FT-NGVD
18
16
14
12
10
8
6
4
2
TOP OF LEVEE = 16.9 FT
PEAK SPF STAGE = 14.4 FT
12.5 ft
TOP OF GATE ELEVATION = 11.0 FT
Projected Rate of Rise = 0.5 ft/week
July 20
July 15
August 1
14
28
11
25
9
23
6
20
May2017
Jun2017
Jul2017
Aug2017
WCA3A PRECIP-BASIN
S12A ELEV-HEAD
S12B ELEV-HEAD

ENCLOSURE 1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File Edit View Help
Precip (in)
0
2
4
6
8
10
FT-NGVD
11.5
11.0
10.5
10.0
9.5
9.0
8.5
8.0
TOP OF GATE ELEVATION = 11.0 FT
Jan
Apr
Jul
Oct
Jan
Apr
Jul
2016
2017
WCA3A PRECIP-BASIN
3STATION AVG ELEV
S12A ELEV-HEAD
S12B ELEV-HEAD

ENCLOSURE 2

From:	Moreno, Meredith A CIV USARMY CESAJ (US)
To:	"Ramirez, Armando"; Ralph, Gina P CIV USARMY CESAJ (US); "swalker@llw-law.com"; "mdiffenderfer@llw-law.com"; "Bradley Mueller"; "Anne Mullins"; "Paul Backhouse"; "Leonard Rawlings"; "harold.peterson@bia.gov"; "David.Saunders@bia.gov"; "blusher@achp.gov"; "Del Bene, Penelope"; "timothy.parsons@dos.myflorida.com"; "Tom McCulloch"; "Aldridge, Jason H."; "Chris Daniel"; "Victoria Menchaca"; "Stanley, Joyce"
Subject:	Temporary Deviation for WCA 3 and ENP
Date:	Monday, June 26, 2017 5:47:47 PM
Attachments:	Attachment 1.jpg Attachment 2.jpg EFO High Water Conditions South Florida 17-0867.pdf

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All,

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is preparing an Environmental Assessment associated with a temporary deviation of the 2012 Water Control Plan and the MWD Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). A series of early wet season storms have occurred since June 5, 2017 causing water levels in the three WCAs to rise above their maximum regulation schedule and the maximum exceedance elevations per the Water Control Plan. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year (Attachment 1). These high water levels in the WCAs at the beginning of the wet season threaten wildlife and tree islands, particularly in WCA-3A. If the rate of the rise of water is not mitigated to limit the prolonged duration of high water conditions, there is the potential for these high water levels to pose significant environmental risks due to reduced flood storage as the wet season and hurricane season continue.

Therefore, immediate action is necessary to deviate from permitted water management practices to move flood water out of the WCAs and subsequently provide more water storage and water movement opportunities. The following are the proposed water management actions to achieve high water relief in the WCAs (Attachment 2):

1)Open S-12A, S-12B, S-343A, S-343B and S-344 prior to official opening date of July 15, 2017;
2)Open S-152 to discharge water from WCA-3A to WCA-3B;
3)Increase discharge at S-332D from 250 cfs to 500 cfs to increase discharge from WCA 3A to the South Dade Conveyance S using S-333 and S-334, if needed; and
4)Increase the discharge at S-197 to 600 cfs from the current maximum release of 400 cfs to accommodate additional flows from WCA 3A to the SDCS using S-333 and S-334 while retaining capacity to manage local basin runoff.

The proposed water management actions described above would be implemented until the WCA-3A three-station gage average falls below Zone A (per the Water Control Plan) or until 30 November, whichever comes first. Gage restrictions in WCA 3B and at the L-29 canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources. The proposed action is expected to increase water deliveries from WCA 3A to ENP and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action. Potential losses in tree islands may occur as a result of high water levels in the WCAs if the proposed action is not taken.

Based on the temporary nature and short duration of the project, the Corps believes that this will have no adverse effects on historic properties listed or eligible for listing in the National Register of Historic Places. In addition, the Site 71/SRS-1 gage restriction, the L-29 stage limit of 7.5-7.8 ft NGVD, and monitoring of tree islands pursuant to the ERTP Programmatic Agreement will continue throughout the deviation to ensure no adverse effect to cultural resources. Pursuant to the Programmatic Agreement, the National Environmental Policy Act, and Section 106 of the National Historic Preservation Act (16 USC 470), the Corps kindly requests your comments on this action. This action has been coordinated separately with the State Historic Preservation Office, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and Everglades National Park. Please feel free to call or email with any questions or concerns.

Thank you,

Meredith A. Moreno, M.A., RPA

Archaeologist
Planning Division, Environmental Branch
Jacksonville District, US Army Corps of Engineers
Office: 904-232-1577
Mobile: 904-861-9967

From:	Moreno, Meredith A CIV USARMY CESAJ (US)
To:	"Ramirez, Armando"; Ralph, Gina P CIV USARMY CESAJ (US); "swalker@llw-law.com"; "mdiffenderfer@llw-law.com"; "Bradley Mueller"; "Anne Mullins"; "Paul Backhouse"; "Leonard Rawlings"; "harold.peterson@bia.gov"; "David.Saunders@bia.gov"; "blusher@achp.gov"; "Del Bene, Penelope"; "timothy.parsons@dos.myflorida.com"; "Tom McCulloch"; "Aldridge, Jason H."; "Chris Daniel"; "Victoria Menchaca"; "Stanley, Joyce"
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3)Increase discharge at S-332D from 250 cfs to 500 cfs to increase discharge from WCA 3A to the South Dade Conveyance S using S-333 and S-334, if needed; and
4)Increase the discharge at S-197 to 600 cfs from the current maximum release of 400 cfs to accommodate additional flows from WCA 3A to the SDCS using S-333 and S-334 while retaining capacity to manage local basin runoff.

The proposed water management actions described above would be implemented until the WCA-3A three-station gage average falls below Zone A (per the Water Control Plan) or until 30 November, whichever comes first. Gage restrictions in WCA 3B and at the L-29 canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources. The proposed action is expected to increase water deliveries from WCA 3A to ENP and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action. Potential losses in tree islands may occur as a result of high water levels in the WCAs if the proposed action is not taken.

Based on the temporary nature and short duration of the project, the Corps believes that this will have no adverse effects on historic properties listed or eligible for listing in the National Register of Historic Places. In addition, the Site 71/SRS-1 gage restriction, the L-29 stage limit of 7.5-7.8 ft NGVD, and monitoring of tree islands pursuant to the ERTP Programmatic Agreement will continue throughout the deviation to ensure no adverse effect to cultural resources. Pursuant to the Programmatic Agreement, the National Environmental Policy Act, and Section 106 of the National Historic Preservation Act (16 USC 470), the Corps kindly requests your comments on this action. This action has been coordinated separately with the State Historic Preservation Office, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and Everglades National Park. Please feel free to call or email with any questions or concerns.

Thank you,

Meredith A. Moreno, M.A., RPA

Archaeologist
Planning Division, Environmental Branch
Jacksonville District, US Army Corps of Engineers
Office: 904-232-1577
Mobile: 904-861-9967

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO
ATTENTION OF

Planning and Policy Division
Environmental Branch

JUN 2 0 2017

The Honorable Billy Cypress
Chairman, Miccosukee Tribe of Indians of Florida
Post Office Box 440021, Tamiami Station
Miami, Florida 33144

Dear Chairman Cypress:

Pursuant to the National Environmental Policy Act (NEPA) and the U.S. Army Corps of Engineers (Corps) Regulation (33 CFR 230.11), this letter constitutes the Notice of Availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the 2017 Planned Temporary Deviation to the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park (MWD) Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). A series of early wet season storms have occurred since June 5, 2017 causing water levels in the three WCAs to rise above their maximum regulation schedule and the maximum exceedance elevations per the 2012 Water Control Plan. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year.

If the rate of the rise of water is not mitigated to limit the prolonged duration of high water conditions, there is the potential for these high water levels to pose significant environmental risks due to reduced flood storage as the wet season and hurricane season continue. Immediate action is necessary to deviate from permitted water management practices to move flood water out of the WCAs and subsequently provide more water storage and water movement opportunities. The purpose of this EA is to document and disclose to the public potential environmental consequences on the human environment related to the Corps' decision to deviate from the 2012 Water Control Plan and MWD Increment 1 Plus operational strategy.

The proposed water management actions described within the EA would be implemented until the WCA-3A three-station gage average falls below Zone A of the WCA-3A Regulation Schedule. Gage restrictions within WCA-3B and the L-29 Canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources and on-going construction within C-111 South Dade and 8.5 Square

Mile Area projects. The proposed action is expected to increase water deliveries from WCA-3A to Everglades National Park and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action.

The EA and Proposed FONSI are available for your review on the Corps Environmental planning website:

http://www.saj.usace.army.mil/About/DivisionsOffices/Planning/EnvironmentalBranch/EnvironmentalDocuments.aspx

A copy of the report is also available at the following libraries:

Miami-Dade Public Library
Main Branch
101 West Flagler Street
Miami, FL 33130

Miami-Dade Public Library
Homestead Branch
700 N Homestead Blvd.
Homestead, FL 33030

We intend to pursue an open and public process and recognize the obligations that the Corps has to its tribal partners. The Corps is currently coordinating this action with the appropriate staff members and will continue to consult with your staff through implementation of this project. Please submit any comments you may have in writing to the letterhead address within 30 days of the date of this letter. Questions concerning this EA and FONSI may be submitted to Dr. Gina Ralph at the letterhead address or to Gina.P.Ralph@usace.army.mil.

Sincerely,

Jason A. Kirk, P.E.
Colonel, US Army
District Commander

Enclosure

cc:

Fred Dayhoff, NAGPRA Representative, Consultant to Miccosukee Tribe,
HC 61 SR 68 Old Loop Road, Ochopee, FL 34141
Kevin Donaldson, Real Estate Services, Miccosukee Tribe of Indians of Florida,
P.O. Box 440021, Tamiami Station, Miami, FL 33144
Gene Duncan, Director Water Resources Department, Miccosukee Tribe of Indians of
Florida, P.O. Box 440021, Tamiami Station, Miami, FL 33144

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO
ATTENTION OF

Planning and Policy Division
Environmental Branch

JUN 2 8 2017

Honorable Marcellus Osceola, Jr.
Chairman, Seminole Tribe of Florida
6300 Stirling Road
Hollywood, FL 33024

Dear Chairman Osceola:

Pursuant to the National Environmental Policy Act (NEPA) and the U.S. Army Corps of Engineers (Corps) Regulation (33 CFR 230.11), this letter constitutes the Notice of Availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the 2017 Planned Temporary Deviation to the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park (MWD) Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). A series of early wet season storms have occurred since June 5, 2017 causing water levels in the three WCAs to rise above their maximum regulation schedule and the maximum exceedance elevations per the 2012 Water Control Plan. WCA-3A alone received 18.35 inches of precipitation since June 1, equating to 293% of the average for this time of year.

If the rate of the rise of water is not mitigated to limit the prolonged duration of high water conditions, there is the potential for these high water levels to pose significant environmental risks due to reduced flood storage as the wet season and hurricane season continue. Immediate action is necessary to deviate from permitted water management practices to move flood water out of the WCAs and subsequently provide more water storage and water movement opportunities. The purpose of this EA is to document and disclose to the public potential environmental consequences on the human environment related to the Corps' decision to deviate from the 2012 Water Control Plan and MWD Increment 1 Plus operational strategy.

The proposed water management actions described within the EA would be implemented until the WCA-3A three-station gage average falls below Zone A of the WCA-3A Regulation Schedule. Gage restrictions within WCA-3B and the L-29 Canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources and on-going construction within C-111 South Dade and 8.5 Square

Mile Area projects. The proposed action is expected to increase water deliveries from WCA-3A to Everglades National Park and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action.

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Sincerely,

Jason A. Kirk, P.E.
Colonel, US Army
District Commander

Enclosure

cc:

Dr. Paul N. Backhouse, Ph.D., Seminole Tribe of Florida, Tribal Historic Preservation Officer, Ah Tha Thi Ki Museum, 30290 Josie Billie Hwy, PMB 1004, Clewiston, Florida 33440
Cherise Maples, Director, Environmental Resource Management, Seminole Tribe of Florida, 6300 Stirling Road, Hollywood, FL 33024
Patricia Powers, Bose Public Affairs Group, 2000 M Street, N.W., Suite 520, Washington, D.C. 20036
Manuel Tiger, Big Cypress General Council Office, Council Representative, 31000 Josie Billie Highway, Clewiston, FL 33440
Andrew J. Bowers, ESQ., Brighton Council Representative, Seminole Tribe of Florida Brighton Council, 500 Harney Pond Road, Okeechobee, FL 34974
Joe Frank, Big Cypress Board Representative, Seminole Tribe of Florida, Inc., Big Cypress Board Office, 31000 Josie Billie Hwy., Clewiston, FL 33440
Jim Shore, General Counsel, Seminole Tribe of Florida, 6300 Stirling Road, Hollywood, FL 33024
Stephen A. Walker, Outside Counsel, Lewis, Longman and Walker, 515 North Flagler Drive, Suite 1500, West Palm Beach, FL 33401

Vinson/CESAJ-PD-E/1805
Nasuti/CESAJ-PD-ES
LoSchiavo/CESAJ-PD-ES
Ralph/CESAJ-PD-E
Summa/CESAJ-PD
George/CESAJ/-PM-EE
Couch/CESAJ-PM-EE
Gonzalez/CESAJ-PM-E
Taplin/CESAJ-PM
Rogalski/CESAJ-PM
Moore/CESAJ-OC 6/28
Murphy/CESAJ-PM
Gapinski/DX
Kirk/CESAJ/DE

28 JUN 17

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO
ATTENTION OF

Planning and Policy Division
Environmental Branch

JUN 2 8 2017

To Whom It May Concern:

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The proposed water management actions described within the EA would be implemented until the WCA-3A three-station gage average falls below Zone A of the WCA-3A Regulation Schedule. Gage restrictions within WCA-3B and the L-29 Canal would remain in place to ensure that the action would not pose an adverse effect to cultural resources and on-going construction within C-111 South Dade and 8.5 Square Mile Area projects. The proposed action is expected to increase water deliveries from WCA-3A to Everglades National Park and Florida Bay temporarily and effects are expected to be spatially limited and small in magnitude given the short duration of the Proposed Action.

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Please submit any comments you may have in writing to the letterhead address within 30 days of the date of this letter. If you have any questions regarding the information in this EA and Proposed FONSI letter, please feel free to contact me or you may contact Dr. Gina Ralph at the letterhead address or to Gina.P.Ralph@usace.army.mil.

Sincerely,

Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO
ATTENTION OF

Planning and Policy Division
Environmental Branch

JUN 2 0 2017

Miami-Dade Public Library
Main Branch
101 West Flagler Street
Miami, FL 33130

Dear Librarian:

Enclosed is a copy of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the 2017 Planned Temporary Deviation to the 2012 Water Control Plan and the Modified Water Deliveries to Everglades National Park (MWD) Increment Plus Operational Strategy in order to provide relief from high water stages within the Water Conservation Areas (WCAs). The Preferred Alternative within the EA occurs within Miami-Dade County, Florida. This EA is being provided for public review pursuant to the National Environmental Policy Act and the U.S. Army Corps of Engineers Regulation (33 CFR 230.11). We request that you make the copy available for public viewing in the reference section of your library for a period of 30 days, after which the copy of the report may be disposed.

Thank you for your assistance in this matter. If you have any questions or need further information, please contact Dr. Gina Ralph at 904-232-2336.

Sincerely,

Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch

Enclosure

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO
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Planning and Policy Division
Environmental Branch

JUN 2 8 2017

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Homestead, FL 33030

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Gina Paduano Ralph, Ph.D.
Chief, Environmental Branch

Enclosure

Florida Fish and Wildlife Conservation Commission

Commissioners
Brian S. Yablonski
Chairman
Tallahassee

Allese P. "Liesa" Priddy
Vice Chairman
Immokalee

Ronald M. Bergeron
Fort Lauderdale

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Bo Rivard
Panama City

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Robert A. Spottswood
Key West

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Nick Wiley
Executive Director

Eric Sutton
Assistant Executive Director

Jennifer Fitzwater
Chief of Staff

South Region
Dr. Thomas Reinert
Regional Director

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Managing fish and wildlife resources for their long-term well-being and the benefit of people.

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West Palm Beach, FL
33412-3303

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(800) 955-8770 (V)

MyFWC.com

July 25, 2017

Dr. Gina Paduano Ralph
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019
Gina.p.ralph@usace.army.mil

RE: Department of the Army, Jacksonville District Corps of Engineers – Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), Planned Temporary Deviation to Affect Relief of High Water Levels within Water Conservation Area 3A, Broward and Miami-Dade Counties, Florida

Dear Dr. Ralph:

The Florida Fish and Wildlife Conservation Commission (FWC) has reviewed the above-referenced assessment, and provides the following comments in accordance with FWC's authorities under Chapter 379, Florida Statutes, Chapter 68, Florida Administrative Code; and Article 4, Section 9, Florida Constitution.

Project Description

Due to the extreme amount of rainfall that occurred within the South Florida ecosystem during the month of June 2017, water levels increased above public access closure criteria established by the FWC for the Everglades Complex of Wildlife Management Areas. Most areas of South Florida were inundated, restricting the ability to safely move water to mitigate the effects of flooding. Therefore, there was an immediate need to deviate from the permitted water management practices to move flood water out of the Water Conservation Areas (WCAs). This will require permission to deviate from established water management practices identified in the current approved Everglades National Park to South Dade Conveyance System Water Control Plan.

The U.S. Army Corps of Engineers (USACE), Jacksonville District, has initiated a planned deviation from the approved Water Control Plan for alleviating high water conditions within the South Florida ecosystem. The proposed action, Alternative D (Preferred Alternative), consists of four major components including:

1. opening of the S-12A, S-12B, S-343A, S-343B, and S-334 prior to the official opening date of July 15, 2017;
2. opening of the S-152 to discharge from WCA3A to WCA-3B;
3. increasing discharges at the S-332D from 250 cubic feet per second (cfs) to 500 cfs to increase discharge from WCA-3A to the South Dade Conveyance System using the S-333 and S-334, if needed; and
4. increasing discharge at the S-197 from 400 cfs to 2,400 cfs to accommodate additional flows from WCA3A to the South Dade Conveyance System using S-333 and S-334 while retaining capacity to manage local basin run off.

The remaining alternatives include: Alternative A (No Action); Alternative B (Relaxation of the L-29 Canal Constraint); and Alternative C (Use of S-152). Alternative A does not provide any relief from current high water levels. The EA states that Alternative B would pose serious and irrevocable risks to ongoing construction contracts in the 8.5 Square Mile Area and C-111 South Dade Project; and Alternative C would provide only minimal benefits to WCA-3A. Expedited consultation of the preferred alternative and planned deviation has been coordinated with Federal, Tribal, and State agencies. Additionally, Section 7 of the Endangered Species Act (ESA) consultation is on-going with the U.S. Fish and Wildlife Service.

Comments and Recommendations

The FWC has fish and wildlife and land management responsibilities for WCAs 2 and 3, which are managed as the Everglades and Francis S. Taylor Wildlife Management Area. As a result of record amounts of precipitation across south Florida in June 2017, water levels within WCA-3A have increased to levels that are detrimental to area wildlife, such as federally and state-listed wading birds and small- to large-sized mammals, and their habitats. Negative effects to wildlife under high water conditions can include poor foraging habitat, reduced breeding success, increased predation risks, and altered behavior, such as stranding on area tree islands and levees. Stranding increases stress levels and wildlife mortality. Critical wildlife habitat such as tree island vegetation can also be negatively affected by extended and repeated high water conditions. During the extended high water event in 2016, tree island vegetation was subject to high water conditions for approximately 20 weeks.

The proposed planned deviation will allow additional water to move out of WCA-3A, which should help reduce adverse impacts to tree islands and their associated wildlife in WCA-3A. Actions to reduce water levels can lessen the detrimental long-term effects that prolonged high water levels have on the essential foraging and nesting habitats of snail kites, wood storks, and state-listed wading bird species such as tricolored and little blue herons, and terrestrial wildlife such as white-tailed deer and marsh rabbits. The FWC staff has provided an updated table of state-listed species (enclosed) that may be used as reference to update "*Table 4: State Listed Species Within the Project Area*" published in the EA. The FWC supports this step forward in both coordination and action to help relieve extreme high water conditions in WCA-3A and to facilitate water movement south through the system and ultimately to Florida Bay.

The FWC appreciates the expedited coordination that preceded the emergency deviation and the willingness to maintain open and cooperative communication with the FWC and the U.S. Fish and Wildlife Service during the planned deviation. The FWC began communicating with USACE on the high water conditions during emergency high water management conference calls on June 16 and June 23, 2017. Furthermore, the FWC provided support of actions on June 25, 2017, and by letter to the USACE dated June 28, 2017 (enclosed).

We appreciate the opportunity to provide support for this emergency measure and find this proposed deviation consistent with FWC's authorities under the Coastal Zone Management Act/Florida's Coastal Management Program. If you need further assistance,

please do not hesitate to contact Jane Chabre by phone at (850) 410-5367 or by email at FWCConservationPlanningServices@myfwc.com. If you have specific technical questions regarding the content of this letter, please contact Mr. Michael Anderson in our West Palm Beach office at (561) 625-5122 or by email at michael.anderson@myfwc.com.

Sincerely,

James Erskine, Everglades Coordinator
Office of Executive Director

jma/ma
ENV 1-5-2
WCA-3 High Water Deviation EA and FONSI 2017_33467_072517
Enclosures

Florida Fish and Wildlife Conservation Commission

Commissioners
Brian Yablonski
Chairman
Tallahassee

Allese P. "Liesa" Priddy
Vice Chairman
Immokalee

Ronald M. Bergeron
Fort Lauderdale

Richard Hanas
Oviedo

Bo Rivard
Panama City

Michael W. Sole
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(800) 955-8770 (V)

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June 28, 2017

Colonel Jason A. Kirk
Jacksonville District Commander
US Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, FL 32207-8175

RE: Conditions in the Everglades Complex of Wildlife Management Areas

Dear Colonel Kirk,

As a Commissioner of the Florida Fish and Wildlife Conservation Commission (FWC) and the point person on Everglades challenges for the Commission, I write to inform you of the conditions in the Everglades Complex of Wildlife Management Areas (ECWMA) following the significant rainfall events that occurred earlier this month.

The FWC has fish, wildlife, and land management responsibilities for the ECWMA. At approximately 736,881 acres, the ECWMA is comprised of the Everglades and Francis S. Taylor Wildlife Management Area (EWMA), Holey Land Wildlife Management Area, and Rotenberger Wildlife Management Area. Water Conservation Areas (WCA) 2A, 2B, 3A, and 3B make up the central core of the ECWMA and contain significant ecological resources of the Florida's Everglades characterized by a vast landscape of sawgrass marsh, freshwater slough, wet prairie, and upland tree island habitats. The management and maintenance of water levels compatible with the natural ecology of the ECWMA are essential for the maintenance and restoration of healthy wildlife populations, wildlife habitats, and recreational activities.

The ECWMA is experiencing extraordinary water levels resulting from rainfall events that deposited an average of 15 inches of rainfall across the region with localized areas within the ECWMA receiving over 20 inches of rain in the seven-day period from June 1 to June 8. The sudden and dramatic increase in water levels throughout the ECWMA and associated wildlife concerns prompted the FWC to take immediate conservation actions. On June 13, 2017, the FWC issued Executive Order 17-24 creating special regulations restricting uses and public access in the EWMA, Holey Land Wildlife Management Area, and Rotenberger Wildlife Management Area.

Water levels at key monitored stations used by the FWC (62/63 gauge average) are approximately 2.17 feet above the historical average for the month of June (1980-today). Water levels in WCA-2A are approximately 1.05 feet above historical average for this time of year. Furthermore, it is anticipated that continued high volume inflows and normal wet season rainfall across the region may further exacerbate the current conditions, while above normal rainfall or tropical weather systems could significantly compound the current situation.

The duration of a high-water event is significant for both wildlife and associated habitats. The FWC wildlife monitoring programs and wildlife studies have documented the effects of high water on wildlife and their habitats, particularly tree islands. Typically, terrestrial wildlife species, such as white-tailed deer, marsh rabbits, and other small and medium-sized mammals, are most vulnerable to high water conditions. Deer and other terrestrial wildlife respond to high water levels by moving to elevated locations, such as tree islands, spoil islands, and levees. When restricted to higher ground, preferred food sources are limited, predation risks increase, and wildlife behaviors are altered, which greatly increases stress levels and wildlife mortality. High water that persists for more than 60 days can have deleterious impacts on wildlife populations.

Additionally, the FWC has documented that water depths exceeding 2.5 feet for more than 60 days have long-lasting impacts on Everglades plant communities and stress tree island vegetation.

Analyses performed by state and federal water managers confirm the volume of water entering the EWMA far exceeds the volume being moved south to Florida Bay due to constraints in the current water control plan. Projections suggest high-water levels may persist long past the critical 60-day period, and that water levels may continue to rise and exceed all recorded levels in the EWMA. Immediate actions to increase outflows from the EWMA are necessary to reduce the magnitude and duration of high water and minimize deleterious impacts.

We appreciate the prompt attention by your agency, the South Florida Water Management District, the Department of Environmental Protection, and other partners to address this serious situation, and your recognition that we need to exercise all options for increasing outflows as quickly as possible. We realize it will take time to reduce such a large volume of water in the system and we are concerned that conditions for stressed terrestrial wildlife may continue to worsen over the coming weeks. We welcome the opportunity to assist, in any way, efforts to improve these conditions and support all actions our state and federal partners take to address these challenges. Please continue to coordinate any necessary actions with FWC's Everglades Coordinator, James Erskine, who can be reached at James.Erskine@MyFWC.com or (561) 882-5704.

Sincerely,

Alligator Ron Bergeron
Commissioner

jme/rb

cc: Brigadier General C. David Turner, U.S. Army Corps of Engineers
Noah Valenstein, Secretary, Florida Department of Environmental Protection
Peter Antonacci, Executive Director, South Florida Water Management District
Shannon Estenoz, Director, U.S. DOI Office of Everglades Restoration Initiatives
Pedro Ramos, Superintendent, Everglades & Dry Tortugas National Park
Larry Williams, Field Supervisor, U.S. Fish and Wildlife Service

TABLE 4. STATE LISTED SPECIES WITHIN THE PROJECT AREA

Common Name	Scientific	Name Status
Mammals		
Everglades mink	Mustela vison evergladensis	T
Birds		
Snowy plover	Charadrius nivosus	T
American oystercatcher	Haematopus palliates	T
Black skimmer	Rynchops niger	T
Least tern	Sterna antillarium	T
White-crowned pigeon	Patagioenas leucocephalus	T
Little blue heron	Egretta caerulea	T
Tricolored heron	Egretta tricolor	T
Reddish egret	Egretta rufescens	T
Roseate spoonbill	Platalea ajaja	T
Florida sandhill crane	Antigone canadensis pratensis	T
Southeastern American kestrel	Falco sparverius paulus	T
Reptiles		
Rim rock crowned snake	Tantilla oolitica	T
Plants		
Pine-pink orchid	Bletia purpurea	T
Lattace vein fern	Thelypteris reticulate	E
Eatons spikemoss	Selaginella eatonii	E
Wright's flowering fern	Anemia wrightii	E
Tropical fern	Schizaea pennula	E
Mexican vanilla	Vanilla mexicana	E

Audubon Florida * Everglades Foundation

Everglades Law Center * National Parks Conservation Association

July 28, 2017

Dr. Gina Paduano Ralph
U.S. Army Corps of Engineers
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019
Email: gina.p.ralph@usace.army.mil

Re: Planned Temporary Deviation to Effect Relief of High Water Levels Within WCA 3A

Dear Dr. Ralph:

We write on behalf of the undersigned organizations with comments on the decision of the U.S. Army Corps of Engineers (Corps) to implement an emergency deviation to operations of the Central and South Florida Project (C&SF Project) with the aim of reducing water levels in Water Conservation Areas 1, 2, and 3 (2017 Temporary Emergency Deviation). Because the 2017 Temporary Deviation was implemented on an emergency basis and is already complete, our comments cannot affect its scope or implementation. Our focus is thus more on concerns for the future, as similar emergency situations are likely to arise again as we await implementation of central Everglades storage and treatment capacity to allow more water to move south through the central Everglades into Florida Bay.

We emphasize our understanding of the need to take emergency action in extreme weather conditions, particularly where the Corps has identified risk to human health and safety. At the same time, we know that continued delays in the implementation of significantly expanded capacity in the central Everglades for water storage and treatment means that all parts of the south Florida ecosystem – the estuaries, the WCAs, Everglades National Park, Florida and Biscayne Bays, and the species that depend on these unique environments – may suffer as a result of conditions created by high and low water emergencies. We must expeditiously finish restoration projects in South Dade to better handle the unpredictable weather patterns we know will continue in the years ahead.

We offer comments on two portions of the emergency operations: increases in allowable flow through S-197, and the early opening of S-12A and S-12B.[1] We reiterate concerns we have raised about these operations in prior comments on the phased operation of the Modified Waters Delivery Project (ModWaters) and the Everglades Restoration Transition Plan. We also emphasize the need for expedited review of data gathered during these operations by the Project Delivery Team (PDT) to better understand the amount of water released from these structures

[1] The Corps' Public Notice explained that it planned to reduce flows from WCA-1 to WCA-2A; open structures S-12A/B, S-343A/B, and S-344; open a temporary water control structure, S-152; increase flows through pump station S-332D; and increase flows at structure S-197.

during the 2017 Temporary Deviation, as well as the effects of these releases on water levels in WCA-3A, agricultural lands adjacent to the South Dade Conveyance System (SDCS), Cape Sable Seaside Sparrow (CSSS) nesting habitat, and Manatee Bay and Barnes Sound. The PDT should also analyze salinity conditions because of these increased point source discharges and effects this may have on benthic flora and fauna in southern Biscayne Bay, specifically in Manatee Bay and Barnes and Card Sounds.

Increasing Flows at S-197 Structure

We have repeatedly raised concerns about plans to increase discharges from the S-197 structure, used to reduce increased flood risks to agricultural landowners in South Dade County. The flood risks to agricultural lands have not been scientifically analyzed to warrant such extreme use of S-197 nor have the adverse affects of its operation on the marine environment of Manatee Bay and Barnes Sound been fully evaluated. To the contrary, data from a past event (in 2015-16) suggests that the amount of water discharged through S-197 was much more than necessary to keep agricultural lands from flooding. A significant portion of the S-197 discharge could have been diverted to Florida Bay either through operations of the spreader canal pumps or simply reducing capacity at S-197 and allowing overland from the C-111. Available information from the 2017 Temporary Deviation suggests these emergency operations may also have allowed greater discharges than required.

Increased inflows into the historic Everglades and SDCS occurred through the WCA-3A outflow structures (up to 1,600 cfs more flow, or 3,200 ac-ft per day), as well as S-152, with complementary operations of S-355A and S-355B (up to 525 cfs, or 1,050 ac-ft per day). Outflows were increased through S-332D (increased from 250 cfs to 500 cfs), as well as by way of the massive increase of allowable flow out of S-197 from 400 cfs to 2,400 cfs. Balancing these numbers in terms of inflows and outflows suggests the emergency operations allowed more water to flow out of the SDCS than was allowed into it by way of the emergency operations. At the minimum, S-197 flows should never exceed the amount conveyed southward at S-177.

For example, on July 20, 2017 S-197 was releasing 809 cfs, but only 478 cfs was being conveyed southward from S-177. The difference is water that is being diverted from Florida Bay and sent to tide in Manatee Bay. This is occurring at a time when hypersaline conditions still exist in some parts of Florida Bay even in the middle of a very wet rainy season.

Discharges through S-197 directly reduce the amount of water able to enter Florida Bay through Taylor Slough and overland flow from the C-111. We understand and expect that operations through S-197 will be fully evaluated as part of the process of developing the Combined Operations Plan (COP) that must be completed and operational in 2019. Ceasing regular use of the S-197 is integral to the full restoration of Everglades National Park and Florida Bay.

The S-197 structure was never intended to be a flood control structure. It was built as an ancillary road to U.S. Highway 1 during C-111 construction and was planned for decommission after road construction was complete. The structure was later approved to provide flood control on a temporary basis, yet more than thirty years later water managers still rely on the S-197 more frequently than ever intended, especially over the last two years. These emergency operations also allowed for the installation of two temporary pumps by the S-176 structure to “allow water

to be moved to tide south through the S-197 structure[2]." Instead of moving towards restoration of the Southern Everglades Ecosystem by flowing more freshwater through Everglades National Park and out through Florida Bay as intended (and as funded by taxpayers), the volume of releases from S-197 continues to increase. This process robs water from the parched southern Everglades. We continue to oppose operations counter to the goals of the Comprehensive Everglades Restoration Plan and emphasize that landowners in the South Dade area must provide data/allow data to be collected by the PDT in order to support claims of increased flooding risks.

Opening structures S-12A/B, S-343A/B, and S-344 during their closure periods

In its Emergency Consultation (attached as Appendix 1) the U.S. Fish and Wildlife Service (Service) allowed the Corps to proceed with the 2017 Temporary Deviation. However, as part of the deviation, the Service requested that the Corps "minimize, as much as practical, flows going through the S-12A and S-12B structures" because "[c]ritically endangered Cape Sable seaside sparrows [were] actively nesting immediately downstream of these structures and allowing those nests to succeed [would] help this species recover."

The Service determined that because there was "documented nesting occurring within CSSS subpopulation A, and increased water levels within the habitat [were] likely to adversely affect nesting birds, nestlings, and eggs," the 2017 Temporary Emergency Deviation would likely adversely affect the CSSS. However, the agency concluded that the 2017 Temporary Deviation would "not result in jeopardy to the CSSS because their population appear[ed] to have increased slightly this year and the minimum target of 90 dry nesting days" had been met.

Monitoring appears to confirm that water released from the S-12A and S-12B structures likely adversely affected nesting CSSS. According to the Weekly CSSS Report for the first week of July by the Ecostudies Institute (attached as Appendix 2), three nests found on June 27th, all with eggs, had failed by July 6th, "due to unknown predators." We understand that the areas around these nests became significantly wetter after the structures were opened, despite little rain in their immediate vicinity. Data suggest predation rates rise with rising water levels. Some studies have suggested a common CSSS predator, rice rats, may disperse with rising waters into areas where nests are present.

We emphasize that CSSS need a minimum of 90 consecutive dry days in their nesting habitat between March 1st and July 15th so that they can produce multiple broods each year. *See* Biological Opinion for the Everglades Restoration Transition Plan 2016 (July 2016 BiOp) at 186 (setting forth bare minimum to avoid jeopardy to the species). We request that data regarding the effects of this deviation from the operations set forth in the July 2016 BiOp be made public and evaluated expeditiously as we move forward with implementation of ModWaters and COP.

We understand that even with the early opening of all four S-12 structures – in spite of expected impacts to sparrow nesting habitat – the capacity to lower water levels in Water Conservation Areas (WCAs) before the end of nesting season (July 15th) provided very little relief to the WCAs, and provided no relief at all to Florida Bay The results of this emergency deviation show

[2] South Florida Water Management District. *Temporary Pumps Have Immediate Impact On High Water Levels in Water Conservation Areas. News Releases*. N.p., 18 July 2017. Web. 18 July 2017. <https://www.sfwmd.gov/news/nr_2017_0718_temp_pumps>.

that flowing water through the S-12 structures is not the permanent solution that is needed to relieve high water conditions that periodically threaten the tree islands of WCA-3A. Rather, the ecological conditions experienced are only further evidence that more dynamic storage and flow capacity is needed to provide operational flexibility that will benefit all areas of the ecosystem and get the water right.

Future Conditions and Next Steps

In the realm of Everglades restoration we often hear about "shared adversity." In considering this emergency deviation, water managers were tasked with balancing the health of upland tree islands versus downstream endangered species habitat, among a number of other important factors. We know there is a win-win-win solution that will benefit the sparrow, the tree islands, and Everglades National Park. Instead of sharing the adversity associated with extreme weather patterns we inevitably face in Florida, we must create a system that improves conditions for each unique and integral region. A rising tide lifts all boats; it's time to elevate the health of the entire Everglades ecosystem.

Longterm relief and success is within reach. The first mile of Tamiami Trail bridge completion is a tremendous milestone. We understand that C-111 South Dade contracts 8, 8A, and 9 are very near construction completion. ModWaters Increment 1.1 has proven successful, and Increments 1.2 and 2 are on the near horizon. We look forward to continuing our participation in the ModWaters Increment 2 planning process in the months ahead. Congressional authorization of CEP and approval by the Florida Legislature of SB10 are clear indications that Florida's elected leaders understand and support the need to quickly advance these critical projects. Now is the time to push forward and expeditiously bring these efforts across the finish line.

It is our sincere hope that by next year's wet season, the system will have greater capacity to store and flow water in a beneficial way so that emergency conditions can be met with operational flexibility. We look to the agencies to ensure that critical projects remain on track to deliver on-the-ground results that are needed for America's Everglades.

Sincerely,

Celeste De Palma
Everglades Policy Association
Audubon Florida

Dawn Shirreffs
Senior Everglades Policy Advisor
Everglades Foundation

Ansley Samson
Of Counsel
Everglades Law Center

Cara Capp
Everglades Restoration Program Manager
National Parks Conservation Association

PLANNED TEMPORARY DEVIATION ENVIRONMENTAL ASSESSMENT: COMMENTS-RESPONSE MATRIX

Comment Number	Comment	USACE Response
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION (FWC)		
FWC-1	As a result of record amounts of precipitation across south Florida in June 2017, water levels within WCA-3A have increased to levels that are detrimental to area wildlife, such as federally and state-listed wading birds and small- to large-sized mammals, and their habitats.	USACE concurs that there are negative effects to fish and wildlife resources due to prolonged periods of high water and has thus implemented deviations to water management operations to address these concerns.
FWC-2	The FWC staff has provided an updated table of state-listed species (enclosed) that may be used as reference to update *"Table 4: State Listed Species Within the Project Area "* published in the EA.	USACE appreciates the updated table and will incorporate this information into future environmental documents for the Water Conservation Areas.
FWC-3	The FWC supports this step forward in both coordination and action to help relieve extreme high water conditions in WCA-3A and to facilitate water movement south through the system and ultimately to Florida Bay.	USACE appreciates FWC support for our water management and restoration activities.
FWC-4	The FWC appreciates the expedited coordination that preceded the emergency deviation and the willingness to maintain open and cooperative communication with the FWC and the U.S. Fish and Wildlife Service during the planned deviation.	USACE appreciates the ongoing coordination with FWC on issues pertaining to water management within the Central & South Florida Project and restoration initiatives.
NON-GOVERNMENTAL ORGANIZATIONS[1]		
NGO-1	The flood risks to agricultural lands have not been scientifically analyzed to warrant such extreme use of S-197 nor have the adverse effects of its operation on the marine environment of Manatee Bay and Barnes Sound been fully evaluated. To the contrary, data from a past event (in 2015-16) suggests that the amount of water discharged through S-197 was much more than necessary to keep agricultural lands from flooding. A significant portion of the S-197 discharge could have been diverted to Florida Bay either through operations of the spreader canal pumps or simply reducing capacity at S-197 and allowing overland from the C-111.	The S-197 structure is a part of the overall C&SF system. Its operating criteria are specified in the 2012 WCP, MWD Increment 1 Operational Strategy, and MWD Increment 1.1 and 1.2 Operational Strategy. The increased discharges through S-197 during the 2015-2016 period could be attributed to the following. 1. The 2016 El Nino event caused very high water conditions throughout the C&SF system, which subsequently triggered an emergency deviation on February 15, 2016. 2. The USFWS B.O RPA requirements to keep the S-12A, S-12B, S-343A, S-343B, and S-344 closed during the CSSS breeding

[1] Non-Governmental Organizations: Audubon Florida, the Everglades Foundation, Everglades Law Center, and the National Parks Conservation Association

Comment Number	Comment	USACE Response
		season from November 1 through July 14. Due to these requirements, a portion or all of the regulatory releases out of WCA-3A through S-333 had to be sent through S-334 and down through the SDCS. 3. S-332D pump station is limited to 250 cfs during the CSSS sparrow breeding season from February 1 through July 14. 4. Total rainfall at S-18C for a period from September 1, 2015 to December 31, 2016 was estimated around 67.7 inches.
NGO-2	At the minimum, S-197 flows should never exceed the amount conveyed southward at S-177.	The purpose of S-197 is to maintain optimum water control stages in the upstream section of C-111 to prevent salt water intrusion and to release water only during major floods. Any increases above the S-177 discharges may be attributed to heavy/intense local rainfalls within the drainage basin.
NGO-3	We understand and expect that operations through S-197 will be fully evaluated as part of the process of developing the Combined Operations Plan (COP) that must be completed and operational in 2019.	The Combined Operational Plan (COP) will fully evaluate operations within the South Dade Conveyance System, including the use of the S-197 structure.
NGO-4	We continue to oppose operations counter to the goals of the Comprehensive Everglades Restoration Plan and emphasize that landowners in the South Dade area must provide data/allow data to be collected by the PDT in order to support claims of increased flooding risks.	The COP will fully evaluate operations within the South Dade Conveyance System. We have invited the full participation of Federal and state agencies, Native American tribes, and the public to participate in the planning and evaluation of COP.
NGO-5	Monitoring appears to confirm that water released from the S-12A and S-12B structures likely adversely affected nesting CSSS.	USACE conducted emergency Endangered Species Act consultation with the U.S. Fish and Wildlife Service (FWS) on June 22 and June 26, 2017. On June 22, 2017, USACE concluded that the 2017 Planned Temporary Deviation may affect, but was not likely to adversely affect, the endangered Cape Sable seaside sparrow (CSSS), endangered Everglade snail kite, or threatened wood stork. On June 27, 2017, FWS concurred with our determinations for both the Everglade snail kite and the wood stork, but did not concur with our determination for CSSS. Therefore, on July 6, 2017, USACE submitted a Biological Assessment to FWS for potential effects on CSSS due to the 2017 Planned Temporary Deviation. Endangered Species Act consultation is ongoing. Under emergency consultation, USACE will conduct an after-action assessment of the 2017 Planned Deviation upon conclusion of the deviation. This assessment will be

Comment Number	Comment	USACE Response
		uploaded to the USACE Water Management Operations website and made publicly available.
NGO-6	We emphasize that CSSS need a minimum of 90 consecutive dry days in their nesting habitat between March 1 and July 15 so that they can produce multiple broods each year.	The CSSS 90 consecutive dry day metric was achieved during the 2017 CSSS nesting period. Please note that based upon the 2016 Everglades Restoration Transition Plan (ERTP) Biological Opinion (BO), Section 7.1.1 at page 186, U.S. Fish and Wildlife Service acknowledges that "*these targets are not technically feasible for all populations in every year at this time.*"
NGO-7	We request that data regarding the effects of this deviation from the operations set forth in the July 2016 BiOp be made public and evaluated expeditiously as we move forward with implementation of ModWaters and COP.	USACE will conduct an after-action assessment of the 2017 Planned Deviation upon conclusion of the deviation. This assessment will be uploaded to the USACE Water Management Operations website and made publicly available. . Development of the COP will be informed by a series of operational field tests previously conducted under the authority of the MWD Project that include relaxation of the Gage-3273 (G-3273) constraint and raising the maximum operating limit in the L-29 Canal up to 8.5 feet National Geodetic Vertical Datum of 1929 (*i.e.* Increment 1, Increment 1.1 and Increment 1.2, and Increment 2). Information gained from water management actions taken by USACE in response to unseasonable high water levels within the Water Conservation Areas in 2016 and 2017 will also be utilized to inform development of the COP.
NGO-8	The results of this emergency deviation show that flowing water through the S-12 structures is not the permanent solution that is needed to relieve high water conditions that periodically threaten the tree islands of WCA-3A	USACE recognizes that restoration initiatives involve routing water flow through its historical flow path of Northeast Shark River Slough. This deviation included the use of the S-12 structures to allow the completion of critical construction components within South Dade that will allow the implementation of the 2016 BO Reasonable and Prudent Alternative (RPA) to include the Modified Water Deliveries (MWD) Increment 2 and MWD Increment 3 Combined Operational Plan in accordance with the schedule identified in the RPA. In order to facilitate ongoing construction efforts through 2017 to the maximum extent practical, USACE will maintain water elevations within the C-111 South Dade and 8.5 Square Mile Area construction footprints at or below stage levels corresponding to the Increment 1.1 maximum operating limit of 7.5 feet NGVD in the

Comment Number	Comment	USACE Response
		L-29 Canal. In light of this constraint, the remaining options to further reduce stages within WCA 3A involve removing the seasonal closure constraints on the S-12A, S-128, S-343A, S-343B, S-344, and S-332D structures.
NGO-9	Rather, the ecological conditions experienced are only further evidence that more dynamic storage and flow capacity is needed to provide operational flexibility that will benefit all areas of the ecosystem and get the water right.	USACE acknowledges the need for dynamic storage and flow capacity and continues to work cooperatively with our non-federal sponsor, the South Florida Water Management District, other Federal and state agencies, and Native American Tribes to restore America's Everglades.
NGO-10	Congressional authorization of CEPP and approval by the Florida Legislature of SB10 are clear indications that Florida's elected leaders understand and support the need to quickly advance these critical projects. Now is the time to push forward and expeditiously bring these efforts across the finish line.	USACE continues to work cooperatively with our non-federal sponsor, the South Florida Water Management District, other Federal and state agencies, and Native American Tribes to restore America's Everglades.