

Everglades Foundation (EF) Letter	The Facts
<p>“Savings Clause analysis only appliesas CERP projects are brought online”, and</p> <p>“The Lake Okeechobee regulation schedule, however, is not a CERP project”</p>	<p>This statement is false. The word ‘projects’ does not appear in the Savings Clause. It refers to ‘implementation of the Plan.’ WRDA 2000 states, “the Plan is approved as a framework for modifications and operational changes to the Central and Southern Florida Project...” Both WRDA 2000 and the CERP Yellow Book describe at length the process framework as part of the Plan and operational changes to achieve the Plan’s objectives are described as part of the Plan.</p>
<p>“the Corps’ Programmatic Regulations have been in force for over 10 years” and conclude that changes to lake regulation scheduleare .. “intervening non-CERP” activities which do not trigger Saving Clause analysis.”</p>	<p>This statement is false. The Programmatic Regulations were adopted in 2003 and required the Corps to develop the Savings Clause baseline. The Lake Schedule is included in the Corps’ document developing the Savings Clause baseline. In 2005, the Corps defined intervening non-CERP activities,” in the DRAFT Guidance Memorandum No. 3 that the Corps never finalized and is still labeled “Draft.” The Lake Okeechobee Regulation Schedule was added to the draft in 2007, with no public review process, so the Corps would not have to meet the Savings Clause with LORS08. Corps cannot rely on a DRAFT guidance document as the basis to ignore WRDA 2000.</p>
<p>“The proposed language expands the interests of consumptive users far beyond that contemplated in WRDA 2000”</p>	<p>This statement is not true. The Savings Clause is very clear in WRDA 2000, the Yellow Book, and in the Final Report of the Governor’s Commission for a Sustainable South Florida. The proposed language just confirms the plain language and the original intent. The changes to the Lake Okeechobee Regulation Schedule must conform to the Savings Clause. How can limiting water use to what people had 20 years ago “expand” their interests today?</p>
<p>“reverting back to the regulation schedule in place in December 2000, the Water Supply and Environment (WSE) schedule, as the base line for such analysis would be disastrous.”</p>	<p>There is no basis for this statement. The Savings Clause only guarantees the same legal level of service enjoyed in 2000 for all users, including the two Tribes, Everglades National Park, fish and wildlife, agriculture and municipalities. This is required in the existing law, and it was designed to protect many diverse stakeholders who depend on water from the Lake. Having a baseline for water supply performance in no way implies that the many other features of the schedule cannot change to meet broader environmental objectives. As much as the EF states otherwise, these two statutory goals are not mutually exclusive. Reemphasizing that the WRDA 2000 protections apply to the Lake Schedule does not force a predetermined outcome. It also does not limit</p>

	<p>the Corps' efforts. The Corps is free to continue to develop LOSOM and find the right schedule that balances all interests.</p>
<p>Citing numerous negative environmental issues the letter states: "It was a deeply flawed schedule that should not be returned to. "</p>	<p>There is nothing in the proposed language that requires returning to the WSE schedule and the Water Users Coalition does not recommend that. It is only the water supply performance that is prescribed by WRDA 2000, not any specific action. It is worth noting that in the 2003 to 2008 period the Lake experienced four direct hits by hurricanes as well as the worst drought and lowest lake stage ever recorded. No schedule could have prevented the harmful environmental disturbances that were observed. This statement by the EF is an unsupported opinion based upon zero facts.</p>
<p>"Lake regulation schedules should be adopted based on sound scientific data, improvements that have been made in weather forecasting, hydrological monitoring and modeling, and performance metrics that reflect optimal conditions for the lake and downstream ecosystems."</p>	<p>The Water Users Coalition agrees with this statement and there is nothing in the proposed language to prevent it. The proposed language simply supports existing law. The only shortcoming with the EF position is that it fails to mention that water supply is an equally essential feature of Lake management that has been recognized by Congress and the State of Florida since 1948, and it remains the law today.</p>
<p>"Peer reviewed studies and performance metrics that are currently part of the lake regulation schedule record demonstrate the folly of reverting back to the WSE schedule."</p>	<p>The Water Users Coalition is not recommending reverting back to WSE in any respect other than water supply for legal uses. Meeting the regions water supply needs when the lake is low is a minor challenge compared to dealing with high water events in the lake and the in-lake water quality issues that have been well documented for decades.</p>
<p>"The proposed language would significantly undermine restoration efforts currently underway and jeopardize billions of dollars of taxpayer money allocated by the federal government and the state of Florida"</p>	<p>This is the most irresponsible statement made by the EF. The proposed language cannot possibly do what that organization claims. It is ironic that the EF would argue to Congress that the Everglades Restoration law, WRDA 2000 would undermine restoration efforts. It clearly reveals that the EF chooses to ignore what the law says about the protection of water supply as a fundamental component of the passage of CERP.</p>