

Congress of the United States
House of Representatives
Washington, DC 20515-0918

April 22, 2019

Dr. Ann Hodgson
U.S. Army Corps of Engineers Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

To Dr. Hodgson:

As you know, since 2008, water management operations under the Central and Southern Florida Project have been governed by a document called the Water Control Plan For Lake Okeechobee and Everglades Agricultural Area, commonly referred to as the Lake Okeechobee Regulation Schedule (LORS).¹ LORS determines the “allowable quantity, timing, and duration of releases from Lake Okeechobee to the WCAs and to tide (estuaries).”²

As the scientific studies and personal testimonies included in this letter will prove, LORS has been a total and absolute disaster. Under the false pretense of “shared adversity,”³ the entire system was designed to benefit certain water users at the severe detriment of the east and west coasts of Florida. My constituents have seen their animals killed⁴, their personal health put at severe risk⁵, their surrounding environment destroyed⁶ and their businesses decimated⁷—in large part due to the U.S. Army Corps of Engineer’s deeply flawed operations system.

Section 1106 of the America’s Water Infrastructure Now Act of 2018, also known as the Water Resources Development Act of 2018, directs that “The Secretary shall expedite completion of

¹ U.S. Army Corps of Engineers, *Water Control Plan for Lake Okeechobee and Everglades Agricultural Area* (Mar 2008), <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll7/id/8423>.

² *Id* at 7-8.

³ See, e.g., Former South Florida Water Management Executive Director Carol Ann Wehle suggested on March 22, 2011 that certain communities being required to restrict lawn watering to twice a week was somehow “shared adversity” with the communities whose livelihoods and health were being put at risk on a near-daily basis by toxic discharges. Available at <https://www.palmbeachdailynews.com/news/south-florida-water-management-district-tightens-watering-twice-weekly-starting-saturday/VUtF0D4vjwTBLA4v1voaBK/>.

⁴ See, e.g., TCPalm, *Toxic algae in St. Lucie River may have killed 1 dog, sickened 5 others, Stuart vet says* (September 10, 2018), <https://www.tcpalm.com/story/news/local/indian-river-lagoon/health/2018/09/10/toxic-algae-dog-illnesses/1254048002/>.

⁵ See, e.g., TCPalm, *Highly toxic blue-green algae at dam where Lake O waters enter St. Lucie River* (August 29, 2018), <https://www.tcpalm.com/story/news/local/indian-river-lagoon/health/2018/08/29/dep-highly-toxic-blue-green-algae-dam-leading-st-lucie-river/1131439002/>.

⁶ See, e.g., TCPalm, *Is Lake Okeechobee blue-green algae bloom a toxic threat to St. Lucie River?* (May 12, 2016), <http://archive.tcpalm.com/news/indian-river-lagoon/health/blue-green-algae-bloom-reported-in-southern-lake-okeechobee-3295497d-85f4-1454-e053-0100007fd7a3-379021911.html>.

⁷ See, e.g., TCPalm, *Algae driving some Martin businesses to move away, close or do things differently* (June 30, 2016), <http://archive.tcpalm.com/news/indian-river-lagoon/health/algae-driving-some-local-businesses-to-move-away-close-or-do-things-differently-3644252a-a479-68ac-e-385085261.html>.

the Lake Okeechobee regulation schedule to coincide with completion of the Hebert Hoover Dike project, and may include all relevant aspects of the Comprehensive Everglades Restoration Plan described in section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680).”⁸

On January 29, 2019, the U.S. Army Corps of Engineers published a news release indicating that “The Corps is beginning preparation of a NEPA assessment for the [Lake Okeechobee System Operation Manual (LOSOM)], which is required by Section 1106 of the 2018 Water Resources Development Act.”⁹ The news release announced that “A series of National Environmental Policy Act (NEPA) public scoping meetings will be held throughout south Florida during the month of February and public scoping comments will be accepted until March 31, 2019.”¹⁰ The deadline was later extended until April 22, 2019.¹¹

As you know, scoping is the first step in your NEPA requirements.¹² Your proposed action is “to reevaluate and define operations for the Lake Okeechobee regulation schedule that take into account additional infrastructure that will soon be operational.”¹³

Under NEPA, you must consider the direct, indirect and cumulative effects on the human environment. Direct effects are those that result immediately and directly from the action.¹⁴ Indirect effects occur as a result of the action, but are later in time, farther in distance, but are nonetheless reasonably foreseeable.¹⁵ Cumulative effects are those past, present and reasonably foreseeable future actions.¹⁶ Human environment means the natural and physical environment and the relationship of people with that environment (i.e. resources, ecosystems, and human communities).¹⁷

You will also need to consider the context and intensity of the impacts, both beneficial and adverse, including (1) effects on public health and safety; (2) unique characteristics of the area; (3) potential for controversy; (4) uncertainty about effect or unique risks; (5) potential for establishing precedent; (6) cumulative impacts; (7) potential adverse effects on things listed on the National Register of Historic Places and on the loss or destruction of significant scientific, cultural, or historical resources; (8) potential adverse effects on endangered or threatened species or their habitat, or on critical habitat; and (9) potential for violation of another law or requirement imposed for the protection of the environment.¹⁸

⁸ P.L. 115-270 § 1106.

⁹ U.S. Army Corps of Engineers, *Corps invites public to provide input on new Lake Okeechobee System Operation Manual* (Jan 29, 2019), <https://www.saj.usace.army.mil/Media/News-Releases/Article/1742909/corps-invites-public-to-provide-input-on-new-lake-okeechobee-system-operating-m/>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ 40 C.F.R. § 1508.8.

¹⁵ 40 C.F.R. § 1508.8.

¹⁶ 40 C.F.R. § 1508.7.

¹⁷ 40 C.F.R. § 1508.14.

¹⁸ 40 C.F.R. § 1508.27.

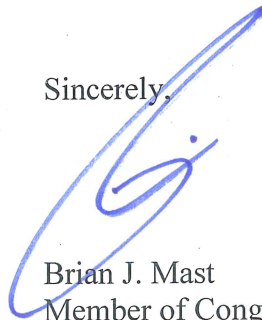
I want to reiterate here that NEPA requires you to consider “the degree to which the proposed action affects public health or safety,” and that this requirement is separate and in addition to your requirements to consider the authorized project purposes discussed below.¹⁹ Moreover, you are required to consider the human environmental impacts, including the detrimental effects on ecosystems such as the St. Lucie and Caloosahatchee Rivers, the human health risks associated with human interaction with those water bodies and the relationship of human communities to those water bodies, such as detrimental economic impact.²⁰

Pursuant to your request on January 29, 2019, please accept this letter, the attached memo and subsequent appendices as my public scoping comment. This memo will identify issues with the current regulation schedule for Lake Okeechobee, including what aspects need to be changed and how those changes should be implemented and evaluated. NEPA requires you to address the issues raised in this letter and use them to inform the LOSOM process.²¹ Further, please consider all scientific studies, articles and other documents included in the appendices of this letter and the attached memo as submitted for the record and intended to be taken into consideration to inform the LOSOM process.

Finally, attached to the back of this document as Appendix A are additional, unedited comments from my constituents. Please consider each of these as an independent scoping comment and respond directly to each individual’s concerns. Their contact information has been included so that you may correspond directly with each respondent.

Thank you for your urgent attention to these life-threatening issues for our community.

Sincerely,



Brian J. Mast
Member of Congress

¹⁹ *Id.*

²⁰ 40 C.F.R. § 1508.14.

²¹ 40 C.F.R. § 1503.4.