

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 8, 2024 () Consent (X) Regular
() Workshop () Public Hearing

Department: County Administration
Submitted By: County Administration (Water Resources Manager)

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: a Resolution regarding the Comprehensive Everglades Restoration Plan (CERP) implementation, Lake Okeechobee System Operating Manual (LOSOM) execution, and updating of the Flood Insurance Rate Maps (FIRM) around Lake Okeechobee in Palm Beach County (PBC).

Summary: As directed by the Board of County Commissioners (BCC), this proposed Resolution is being brought back to the BCC for discussion. **There is no cost to the County. Countywide (MJ)**

Background and Policy Issues: The PBC BCC previously expressed concerns over the transparency of the United States Army Corps of Engineers' (Corps) process for developing a schedule (known as LOSOM) to replace the Lake Okeechobee Regulation Schedule of 2008 (LORS08). LORS08 lowered the operation schedule of Lake Okeechobee by approximately one (1) foot while the Corps performed the work required to rehabilitate the Herbert Hoover Dike. A primary concern was the Corps commitment to maintain the water supply authorized in the 2000 Water Resources Development Act through what is commonly referred to as the Savings Clause. This was communicated through a resolution approved by the BCC on March 12, 2019 and subsequent letters during the development and Environmental Impact Statement comment periods. The last letter was sent by Mayor Sachs on March 1, 2024.

This resolution identifies the issues that the BCC supports and opposes relating to CERP implementation, LOSOM execution, and updates to the FIRM around Lake Okeechobee, including:

- The desire to update the FIRM around Lake Okeechobee to reflect the reduced flooding risk and thereby lower the cost of flood insurance.
- The continued concerns over unconstrained operational flexibility in LOSOM that could result in intentional or unintentional excessive lowering of Lake Okeechobee.
- Increased harmful discharge of Lake Okeechobee water to the Lake Worth Lagoon Estuary.
- The lack of explicit commitment to the Savings Clause.

Attachments:

1. Resolution
2. Previous Resolution (Resolution Number 2019-0379)

Paul Linton

Digitally signed by Paul Linton F.
DN: c=org, DC=pbcbgov, OU=Enterprise, OU=CADM, OU
=PBC, CN=Paul Linton F., E=PLinton@pbcbgov.org
Reason: I am approving this document
Date: 2024.09.30 08:42:21-04'00'
Foxit PDF Reader Version: 12.1.0

Recommended by: _____
Water Resources Manager Date

Approved by: *Paul*
Deputy County Administrator Date 10/3/24

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2025	2026	2027	2028	2029
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>-0-</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?			Yes <u>X</u>	No _____	
Does this item include the use of federal funds?			Yes _____	No <u>X</u>	
Does this item include the use of state funds?			Yes _____	No <u>X</u>	

Budget Account No.:

Fund _____ Department _____ Unit _____ Object _____ Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this item.

C. Department Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

Eric M. ...
 OFMB GA 9/30
 MD 9/30

Shunda ...
 Contract Development & Control
 11/1/24

B. Legal Sufficiency:

[Signature] 10/2/24
 Assistant County Attorney

C. Other Department Review:

 Department Director

RESOLUTION NO. 2024-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REGARDING THE COMPREHENSIVE EVERGLADES RESTORATION PLAN IMPLEMENTATION, LAKE OKEECHOBEE SYSTEM OPERATING MANUAL EXECUTION, AND UPDATING OF THE FLOOD INSURANCE RATE MAPS AROUND LAKE OKEECHOBEE IN PALM BEACH COUNTY

WHEREAS, Lake Okeechobee is the liquid heart of an integrated regional water management system and is essential and interconnected to communities, businesses, public water supply utilities and ecosystems throughout Palm Beach County; and

WHEREAS, Lake Okeechobee's authorized project purposes include flood control, water supply, recreation, navigation, and analysis of environmental effects to fish and wildlife, and cultural and recreational resources; and

WHEREAS, Lake Okeechobee is essential to protecting the region's water supply from saltwater intrusion by providing a source of freshwater to prevent the migration of saltwater into coastal wellfields; and

WHEREAS, Lake Okeechobee is an integral component of the Comprehensive Everglades Restoration Plan (CERP), authorized in Section 601 of the 2000 Water Resources Development Act (WRDA 2000), and is critical to meeting the environmental restoration and water supply needs of South Florida; and

WHEREAS, WRDA 2000 was approved to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection; and

WHEREAS, WRDA 2000 provides assurances through a Savings Clause that no existing legal sources of water be eliminated or transferred by CERP implementation until a new source of water supply of comparable quantity and quality as what existed on the date of enactment of WRDA 2000 is available; and

WHEREAS, rehabilitation activities on Lake Okeechobee's Herbert Hoover Dike (HHD) by the U.S. Army Corps of Engineers (Corps) prompted the implementation of the Lake Okeechobee Regulation Schedule of 2008 (LORS08), which reduced Lake

Okeechobee's water supply performance; and

WHEREAS, the Corps has evaluated and implemented CERP infrastructure planning and lake operations using an incorrect water supply baseline for its Savings Clause analysis, which is currently the subject of federal litigation; and

WHEREAS, in January 2023, the rehabilitation activities on Lake Okeechobee's Herbert Hoover Dike by the Corps were completed and the Dam Safety Action Classification rating improved from a Level 1 (very high risk) to a Level 4 (lowest risk), eliminating the public health and safety risk that justified LORS08; and

WHEREAS, in September of 2023, the Corps issued a memorandum of Joint Approval of the Post Implementation Evaluation for Herbert Hoover Dike in Martin, Palm Beach, Hendry, Glades and Okeechobee Counties, Florida, which provided accreditation of the Herbert Hoover Dike that was accepted by FEMA. The accreditation allows FEMA to update the Flood Insurance Rate Maps (FIRMs) to reflect the reduced risk of flooding; and

WHEREAS, in August 2024, the Secretary of the U.S. Army Corps of Engineers authorized the Lake Okeechobee System Operating Manual (LOSOM) to replace LORS08; and

WHEREAS, the Corps' evaluation of LOSOM did not adhere to the requirements of WRDA 2000, including the Savings Clause, and failed to take into account restoration-driven releases and new CERP infrastructure which are, or will soon be operational components of the regional water management system; and

WHEREAS, Palm Beach County, in partnership with state and local partners, has invested over \$500 million in the acquisition, restoration and management of approximately 32,000 acres of natural areas and invested approximately \$88 million to restore the Lake Worth Lagoon; and

WHEREAS, Palm Beach County supports the objectives of WRDA 2000 and the proper implementation of the Savings Clause to all CERP components, including LOSOM, and wishes to provide direction as to which measures that Palm Beach County supports and opposes in LOSOM's implementation of CERP.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the Board hereby *supports* the following as it relates to CERP implementation, LOSOM execution, and update of the FEMA FIRM around Lake Okeechobee:

1. A science-based and quantitatively evaluated development of projects and operation criteria that is transparent and meets the congressionally-authorized water supply purpose by providing a reliable source of water supply; and

2. Transparent operations that protect all communities as it relates to water supply, the environment, and the economy; and

3. The incorporation of data and methods to ensure that operations improve Lake Okeechobee ecology, protect water supplies and are robust and protective against saltwater intrusion; and

4. The implementation of water storage and water quality treatment projects in Lake Okeechobee's northern tributary basins and the basins tributary to estuarine discharges sufficient to meet environmental goals and provide the authorized level of water supply as agreed to in the Savings Clause; and

5. The reevaluation and remapping required to update FEMA FIRM to reflect the reduced risk with the rehabilitation of Lake Okeechobee's Herbert Hoover Dike and thereby operations that reduce flood risk and flood insurance premiums for residents and businesses in the Glades communities located southeast of Lake Okeechobee; and

6. The proactive coordination with Palm Beach County acknowledging that Palm Beach County should be the determiner of when releases to the Lake Worth Lagoon are beneficial; and

AND BE IT FURTHER RESOLVED that the Board *opposes* the following as it relates to the CERP and LOSOM:

1. Drastically or routinely lowering Lake Okeechobee to levels which would increase the likelihood of water supply shortages above the levels modelled and evaluated in LOSOM Environmental Impact Statement; and

2. Drastically or routinely lowering Lake Okeechobee to levels which would, impact the ability to deliver water to critical ecosystems; and

3. Interpretation and application of the Savings Clause in a manner that fails to protect the existing legal sources of water available on the date of enactment of WRDA 2000; and

4. Lake Okeechobee operations that result in increased risk of saltwater intrusion into coastal wellfields which could cause irreversible damage to freshwater supplies, affect the health and safety of residents, and result in the need for alternative water supply infrastructure investments; and

5. Lake Okeechobee operations that result in restrictions on recreational and commercial fishing, which would impact small businesses such as marinas, fishing guide services and the hospitality industry.

6. Effective Date: This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

- Commissioner Maria Sachs, Mayor _____
- Commissioner Maria G. Marino, Vice Mayor _____
- Commissioner Gregg K. Weiss _____
- Commissioner Michael A. Barnett _____
- Commissioner Marci Woodward _____
- Commissioner Sara Baxter _____
- Commissioner Mack Bernard _____

The Mayor thereupon declared the resolution duly passed and adopted on this _____ day of _____, 20____.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY BOARD OF COUNTY COMMISSIONERS JOSEPH ABRUZZO, CLERK OF THE CIRCUIT COURT & COMPTROLLER

By:  _____
County Attorney

By: _____
Deputy Clerk

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ON THE RE-EVALUATION OF LAKE OKEECHOBEE OPERATIONS BY THE U.S. ARMY CORPS OF ENGINEERS PURSUANT TO THE NATIONAL ENVIRONMENTAL POLICY ACT ASSESSMENT FOR THE LAKE OKEECHOBEE SYSTEM OPERATING MANUAL

WHEREAS, Lake Okeechobee is the liquid heart of an integrated regional water management system and is essential and interconnected to communities, businesses, public water supply utilities and ecosystems throughout Palm Beach County; and

WHEREAS, Lake Okeechobee is an integral component of the Comprehensive Everglades Restoration Plan (CERP) and is critical to meeting the environmental restoration and water supply needs of South Florida; and

WHEREAS, Lake Okeechobee is essential to protecting the region's water supply infrastructure from saltwater intrusion by providing a source of freshwater to prevent the migration of saltwater into coastal wellfields; and

WHEREAS, Lake Okeechobee's authorized project purposes include flood control, water supply, recreation, navigation, environmental effects to fish and wildlife, and cultural and recreational resources; and

WHEREAS, Section 1106 of the 2018 Water Resources Development Act (WRDA) directs the Secretary of the Army to expedite completion of the Lake Okeechobee regulation schedule to coincide with completion of the Herbert Hoover Dike project, and may include all relevant aspects of the CERP; and

WHEREAS, in January 2019, the County received notice from the U.S. Army Corps of Engineers (Corps) that, in accordance with Section 1106 of the 2018 WRDA, the Corps is beginning preparation of a National Environmental Policy Act (NEPA) assessment for the Lake Okeechobee System Operations Manual (LOSOM), which is to re-evaluate and define operations for the Lake Okeechobee regulation schedule that takes into account nearly complete additional infrastructure which will soon be operational components of the water management system; and

WHEREAS, rehabilitation activities on Lake Okeechobee's Herbert Hoover Dike by the Corps began in 2001 and are expected to be complete by 2022; and

WHEREAS, the Lake Okeechobee Regulation Schedule of 2008 (LORS08) was implemented as an interim measure to protect the public from the risk of catastrophic failure of the Herbert Hoover Dike; and

WHEREAS, Palm Beach County, in partnership with state and local partners, has invested over \$500 million in the acquisition, restoration and management of approximately 32,000 acres of natural areas and invested approximately \$88 million to restore the Lake Worth Lagoon; and

WHEREAS, Palm Beach County wishes to provide direction as to which measures that Palm Beach County supports and opposes in the Lake Okeechobee operations re-evaluation process and the resultant LOSOM.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the Board hereby *supports* the following as it relates to the re-evaluation of Lake Okeechobee operations by the Corps:

1. A science-based evaluation that is transparent and acknowledges and balances all congressionally-authorized purposes of Lake Okeechobee operations; and
2. Performance measures that appropriately and accurately characterize impacts to all communities as it relates to water supply, the environment, and the economy; and
3. The incorporation of data and methods to ensure proposed operations improve lake ecology, protect water supplies and are robust and resilient to expected climatic variability; and

4. The implementation of water storage and water quality treatment projects in Lake Okeechobee tributary basins north of the Lake; and
5. Lake Okeechobee operations that reduce flood risk and flood insurance premiums for residents and businesses in the Glades communities located southeast of Lake Okeechobee; and
6. Lake Okeechobee operations that assist in achieving restoration flows and other key ecosystem goals, including performance measures developed by CERP's Restoration Coordination & Verification (RECOVER) program; and
7. The avoidance and/or minimization of Lake Okeechobee discharges to the Lake Worth Lagoon and the Loxahatchee River; and
8. Reductions in water use restrictions and cutbacks on public water utilities and existing permitted users, as compared to those which occur under LORS08.

AND BE IT FURTHER RESOLVED that the Board *opposes* the following as it relates to the re-evaluation of Lake Okeechobee operations by the Corps:

1. Drastically lowering Lake Okeechobee to levels not supported by sound science (e.g. 10.5 feet) which would induce drought conditions, impact the ability to deliver water to critical ecosystems, and result in significant environmental damage; and
2. Lake Okeechobee operations that result in increased risk of saltwater intrusion into coastal wellfields which would cause irreversible damage to freshwater supplies, affect the health and safety of residents, and result in the need for massive alternative water supply infrastructure investments; and
3. Lake Okeechobee operations that result in restrictions on recreational and commercial fishing, which would impact small businesses such as marinas, fishing guide services and the hospitality industry.

This Resolution shall become effective immediately upon its adoption.

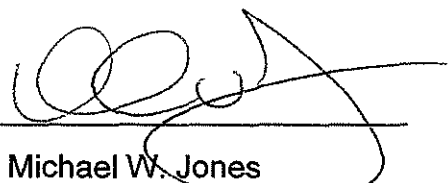
The foregoing resolution was offered by Commissioner McKinlay, who moved its adoption. The motion was seconded by Commissioner Weiss, and upon being put to a vote, the vote was as follows:

MACK BERNARD, Mayor	-	Aye
DAVID KERNER, Vice Mayor	-	Aye
COMMISSIONER HAL R. VALECHE	-	Aye
COMMISSIONER GREGG K. WEISS	-	Aye
COMMISSIONER ROBERT S. WEINROTH	-	Aye
COMMISSIONER MARY LOU BERGER	-	Aye
COMMISSIONER MELISSA MCKINLAY	-	Aye

The Mayor thereupon declared the resolution duly passed and adopted on this 12th day of March, 2019.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY:


Michael W. Jones
Senior Assistant County Attorney

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS
SHARON R. BOCK, CLERK

BY:


Deputy Clerk

