

H.E.R.O.

HERITAGE AND ENVIRONMENT RESOURCES OFFICE

July 28, 2020

Toni Edwards
Senior Scientist
Coastal Ecosystems Section
South Florida Water Management District
P.O. Box 24680
West Palm Beach, FL 33406
Submitted electronically to: tedwards@sfwmd.gov

RE: Seminole Tribe of Florida's Comments on EAA Reservoir Technical Document and Draft Water Reservation Rule

Dear Ms. Edwards:

The Seminole Tribe of Florida ("Seminole Tribe") is in receipt of the *EAA Reservoir Technical Document and Draft Water Reservation Rule*. We have provided below a brief list of potential issues and outstanding questions regarding our identified concerns associated with the Draft EAA Reservoir Water Reservation Rule and Technical Document.

The main issue regarding the EAA Reservoir Draft Water Reservation Rule and Technical Document is that it is still not clear as to whether or not there is potential affects to the Seminole Tribe's water supply. Generally, this reservation could affect the Seminole Tribe's access to water in a couple ways. For example, it could set aside such a large quantity of water that it shrinks the water supply pie creating greater competition among the water users. Also, if the EAA Reservoir receives an inordinate amount of water from Lake Okeechobee, it could affect Lake Okeechobee's ability to supply water because, once in the EAA Reservoir, water may have greater restrictions for use for water supply than when it is in Lake

ERMD

SEMINOLE TRIBE OF FLORIDA
AH-TAH-THI-KI
M U S E U M
A PLACE TO LEARN. A PLACE TO REMEMBER.



Sr. Director and Tribal Historic
Preservation Officer,
Dr. Paul N. Backhouse

Tribal Historic Preservation
Office Director
Ms. Anne Mullins

Director of the Ah-Tah-Thi-Ki Museum
Ms. Kate Macuen

Director of the Environmental
Resources Management Department
Mr. Kevin Cunniff

"THE LAND I WAS UPON I LOVED; MY BODY IS MADE OF ITS SANDS. COACOCHEE."

H.E.R.O.

HERITAGE AND ENVIRONMENT RESOURCES OFFICE

Okeechobee. There may be other ways, too, but we need details to understand exactly what they would be.

Other specific comments/questions on how this Draft Rule and Technical Document will have on the Tribe's water and resources include:

1. How much water will this Draft Rule actually reserve on an average annual basis? The EAA Reservoir is supposed to make 370,000 ac-ft available for the natural environment on an average annual basis, yet the Draft Rule sets aside "all surface water released, via operation, from the EAA Reservoir that is directed to the Lower East Coast Everglades Water Bodies through Structures S-624, S-625, and S-626." The Draft Rule goes on to say, "a modified Lake Okeechobee schedule indicates the EAA Reservoir could convey 825,000 acre-feet of surface water on an average annual basis." But it is not clear whether that number is a quantification of the amount that will be reserved.
2. Will there be any limit to how much water gets reserved? And if so, what will it be? As worded, the Draft Rule reserves all water that leaves three of the structures, but no operation manual for the Reservoir exists, and there is nothing preventing a future operation manual from limiting the amount of water sent through those structures, so theoretically, there is no limit to how much water this Rule actually preserves.
3. The rule, as written, is not clear as to at what point the water becomes protected, does the water only become protected once it passes through one of those structures and is directed to the Everglades or at some point before that point?
4. If it is protected before that point, how will the District identify protected water that will be sent through one of the structures later on from water that will not be sent through?
5. What effect, if any, will this Water Reservation Rule have on Water Rights Compact Work Plan Approvals?
6. The Technical Document may not have considered impacts the EAA Reservoir may cause to water deliveries to Big Cypress Reservation. The maps included in the Technical Document that

ERMD

SEMINOLE TRIBE OF FLORIDA
AH-TAH-THI-KI
M U S E U M
A PLACE TO LEARN. A PLACE TO REMEMBER.



Sr. Director and Tribal Historic
Preservation Officer,
Dr. Paul N. Backhouse

Tribal Historic Preservation
Office Director
Ms. Anne Mullins

Director of the Ah-Tah-Thi-Ki Museum
Ms. Kate Macuen

Director of the Environmental
Resources Management Department
Mr. Kevin Cunniff

"THE LAND I WAS UPON I LOVED; MY BODY IS MADE OF ITS SANDS. COACOCHEE."

H.E.R.O.

HERITAGE AND ENVIRONMENT RESOURCES OFFICE

show the area that was analyzed for water supply impacts currently do not include Big Cypress Reservation. Clarification is needed, since water deliveries to Big Cypress Reservation are sometimes made through the same canals that the EAA Reservoir will affect.

7. Will there be any limit to how much water is sent to the EAA Reservoir from Lake Okeechobee during the dry season? The EAA Reservoir is supposed to receive runoff from the EAA and regulatory releases from Lake Okeechobee that would have otherwise gone to the northern estuaries. Yet the Post-Authorization Change Report (PACR) states that water may also be sent from the Lake Okeechobee to the EAA Reservoir even under water supply conditions. The water that enters the EAA Reservoir will be reserved first for the natural environment, and will only be made available for other purposes under limited conditions. So once water is sent to the EAA Reservoir, it would be reasonable to assume it is effectively lost for water supply purposes. When considered in combination with the USACE use of “operational flexibility” to lower the Lake in the dry season and the additional pressure that is being put on the USACE to send as much water south from the Lake this represents a legitimate concern for the integrity of the Tribe’s Lake Okeechobee water supply without some limits on the amount of water that is set aside for the environment once in the EAA Reservoir.
8. Will another Savings Clause analysis be performed once Lake Okeechobee regulation schedule is revised? It is not clear how the Savings Clause analysis the District performed for this project could affirmatively tell us anything when it was based on the LORS 08 regulation schedule. By the time the EAA Reservoir gets built and becomes operational, the Lake will be operating under LOSOM, and the District says the USACE will revise the Lake schedule to accommodate the Reservoir.
9. How will the EAA Reservoir improve water supply performance? The FEIS for the EAA Reservoir states that the overall project purpose includes “increasing water supply for municipal, industrial, and agricultural users.” The Technical Document, however, makes no mention of this purpose, and only performs analysis that purports to show that existing legal users will not be harmed by the EAA Reservoir. This causes concern that the project will not increase water

ERMD

SEMINOLE TRIBE OF FLORIDA
AH-TAH-THI-KI
M U S E U M
A PLACE TO LEARN. A PLACE TO REMEMBER.



Sr. Director and Tribal Historic
Preservation Officer,
Dr. Paul N. Backhouse

Tribal Historic Preservation
Office Director
Ms. Anne Mullins

Director of the Ah-Tah-Thi-Ki Museum
Ms. Kate Macuen

Director of the Environmental
Resources Management Department
Mr. Kevin Cunniff

“THE LAND I WAS UPON I LOVED; MY BODY IS MADE OF ITS SANDS. COACOCHEE.”

H.E.R.O.

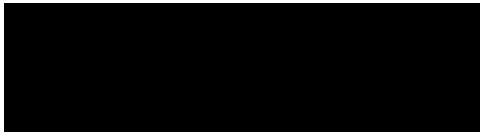
HERITAGE AND ENVIRONMENT RESOURCES OFFICE

supply performance. Please explain how the EAA Reservoir will increase water supply performance?

10. Please note: Cultural Resources notification protocols should be followed under Florida Statute 872 for any inadvertent discoveries and coordinated with the SHPO and THPO. Additionally, potential impacts to tree islands from proposed fluctuating water levels within the project area should be evaluated to reduce impacts cultural resources.

The Seminole Tribe appreciates the hard work and commitment the South Florida Water Management District has applied to this technical document and rulemaking effort. The Seminole Tribe of Florida remains committed to continuing to engage in the rulemaking process, and reserves the right to revise our comments after a more thorough technical review and as more information becomes available. Thank you for your consideration of these comments. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Paul Backhouse, PhD, RPA, Snr. Director, Heritage and Environment Resources Office and THPO
Seminole Tribe of Florida

ERMD

SEMINOLE TRIBE OF FLORIDA
AH-TAH-THI-KI
M U S E U M
A PLACE TO LEARN. A PLACE TO REMEMBER.



Sr. Director and Tribal Historic
Preservation Officer,
Dr. Paul N. Backhouse

Tribal Historic Preservation
Office Director
Ms. Anne Mullins

Director of the Ah-Tah-Thi-Ki Museum
Ms. Kate Macuen

Director of the Environmental
Resources Management Department
Mr. Kevin Cunniff

"THE LAND I WAS UPON I LOVED; MY BODY IS MADE OF ITS SANDS. COACOCHEE."