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FLORIDA CONGRESSIONAL DELEGATION

SUBJECT: Protecting Florida Water Rights as Established Promised in Implementation of the Comprehensive Everglades Restoration Plan and in Development of the Lake Okeechobee Regulation Schedule.

The City of Okeechobee is deeply concerned about the potential loss of water supply for its residents, and agricultural community, as a result of the U.S. Army Corps of Engineers ("USACE" or "Corps") recent legal position to take away protection of existing legal water users in their development of the Lake Okeechobee Regulation Schedule (LOSOM). We write this letter asking congress to establish clear public policy in the Water Resources Development Act (WRDA 2020) that **the rights of existing legal water users must be protected.**

The City of Okeechobee and many other water users fundamentally disagree with the Corps' recent legal position that the Savings Clause does not apply to LOSOM. The "Savings Clause" found in Section 601(h)(5) the landmark Water Resources Development Act of 2000 federal legislation requires the Secretary of the Army Corps to ensure that implementation of the plan does not cause substantial adverse impacts on existing legal uses of water as of the date of enactment of the legislation. Elimination of existing sources of water supply is barred until new sources of comparable quantity and quality of water are available; existing authorized levels of flood protection are maintained; and the water compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District is specifically preserved.

The Savings Clause established fundamental legal and public policy to CERP, the Comprehensive Everglades Restoration Plan – that government cannot and will not take established and permitted water supply away from existing legal users to implement ecosystem restoration projects without providing a replacement source of water.

Make no mistake, our community directly relies on Lake Okeechobee for multitude of uses including for public water supply, and for water supply for the agricultural sector which is vital to our community, and the businesses that support our economy. Recreational use of the lake is also vitally important to the people who live here and many winter visitors. When the Lake stage is low our lands drain even more to the Lake and we are subject to longer and more severe water shortage restrictions. Making matters worse, access to our supply source can be greatly reduced due to shoaling in the canals leading to our treatment plant intake pipes. In the past, we were barely able to obtain a small increase in our water permit allocation due to the LORS 2008

regulation schedule. Without an affordable, water supply availability, our economy cannot grow. If the Lake regulation schedule is not properly crafted in the new Lake Okeechobee System Operating Manual (LOSOM), it will unreasonably constrain our community and our region's ability to grow.

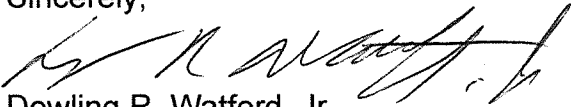
When concerns over the integrity of Herbert Hoover Dike arose in 2008, the Corps developed a 'temporary' lake schedule – LORS 2008 - to operate the lake at lower levels. LORS08 resulting in losing more than a foot of water storage in the lake and impacted water users by increasing the likelihood of water shortage conditions. For years, the Corps has represented that when the \$900 million in dike repairs were completed, they would re-evaluate the lake regulation schedule and look to restore and improve water supply certainty.

The Corps has started the process to develop a new regulation schedule for Lake Okeechobee known as LOSOM - the Lake Okeechobee System Operation Manual. In this process, the USACE has made foundational determinations that will cause significant impacts to water users:

1. The Corps is using LORS 2008 as the base condition for LOSOM's modeling. Because LORS08 operates the lake at low levels and substantially eroded existing permitted water rights, this will make all users subject to shortage restrictions much more frequently; and
2. The Corps recent legal position is that Comprehensive Everglades Restoration Plan ("CERP") Savings Clause on water supply does not apply to the new Lake Okeechobee Regulation Schedule (LOSOM) currently under development. So, the loss of existing water rights certainty is highly likely and getting embedded into all future operations. A substantial portion of our community and economy is built on, and has relied on, permitted water rights establish over the last half-century. Undermining these water rights is patently unacceptable.

The City of Okeechobee urges Congress to step in and establish critical public policy language in the Water Resources Development Act (WRDA 2020) to make it clear that Savings Clause applies to LOSOM. This is vitally important to the future public and agricultural water supply, as well as the economic prosperity of our community.

Sincerely,



Dowling R. Watford, Jr.
Mayor