



BOARD OF COUNTY COMMISSIONERS

FINAL-REVISED

5/15/20 9:00 AM

BOCC MEETING AGENDA

**JOHN F. & RITA M. ARMSTRONG WING OF THE BLAKE LIBRARY
2351 SE MONTEREY ROAD, STUART, FLORIDA 34996**

COUNTY COMMISSIONERS

*Harold E. Jenkins II, Chairman
Stacey Hetherington, Vice Chair
Doug Smith
Sarah Heard
Edward V. Ciampi*

*Taryn Kryzda, County Administrator
Sarah W. Woods, County Attorney
Carolyn Timmann, Clerk of the Circuit Court and
Comptroller*

COVID-19 Update

To provide comments without attending the meeting due to COVID-19, written comments may be submitted through the County's website www.martin.fl.us/BCCPublicComment. The item number the comment is related to is required in the submittal and can be found on the latest BOCC Agenda. Comments submitted through the form that are received prior to the conclusion of the public comment portion of the applicable matter will be read into the record at the public meeting.

CALL TO ORDER

1. MOMENT OF SILENCE
2. PLEDGE OF ALLEGIANCE
3. ADDITIONAL ITEM
4. APPROVAL OF AGENDA

COMMENTS

1. PUBLIC - PLEASE LIMIT COMMENTS TO THREE MINUTES.
2. COMMISSIONERS
3. COUNTY ADMINISTRATOR

DEPARTMENTAL
ADMINISTRATION

DEPT-1 **CORONAVIRUS (AKA COVID-19) UPDATE**

The Board of County Commissioners will hold a special meeting to discuss County matters relating to the Coronavirus. Staff will provide an update on local efforts and coordination taking place.

Agenda Item: 20-0706

PUBLIC WORKS

DEPT-2 **WATER SAVINGS CLAUSE APPLICATION TO LAKE OKEECHOBEE
SYSTEM OPERATING MANUAL**

Recently, there have been efforts to extend the “Savings Clause” in Water Resources Development Act (“WRDA”) 2000 to the ongoing development of the Lake Okeechobee System Operating Manual (“LOSOM”) being conducted pursuant WRDA 2018 and other federal law including the National Environmental Policy Act (“NEPA”). Staff is requesting a Chair letter be sent to the House Transportation and Infrastructure Committee, the US Army Corps of Engineers, and our congressional delegation.

Agenda Item: 20-0733

Additional Item

ADJOURN

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Agenda Item Summary

File ID: 20-0706

DEPT-1

Meeting Date: 5/15/2020

PLACEMENT: Departmental

TITLE:

CORONAVIRUS (AKA COVID-19) UPDATE

EXECUTIVE SUMMARY:

The Board of County Commissioners will hold a special meeting to discuss County matters relating to the Coronavirus. Staff will provide an update on local efforts and coordination taking place.

DEPARTMENT: Administration

PREPARED BY: Name: Donna Gordon

Title: Executive Aide

REQUESTED BY: Taryn Kryzda, County Administrator

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

The meeting will stream live on Martin County Television (MCTV) to Comcast subscribers on Channel 20, U-Verse subscribers on Channel 99 and online at www.martin.fl.us.

Visit www.martin.fl.us/coronavirus, Martin County's online resource for information related to COVID-19 and connect with us on social media. For the most up-to-date info on Martin County happenings, follow us on [Facebook](#) and [Twitter](#).

A Local State of Emergency has been declared primarily due to the State requesting such action which is necessary to be eligible for Category B reimbursement from the Federal Emergency Management Agency (FEMA).

On February 11, 2020 the World Health Organization announced an official name for the disease that is causing the 2019 novel coronavirus outbreak, first identified in Wuhan China. The new name of this disease is coronavirus disease 2019, abbreviated as COVID-19. In COVID-19, 'CO' stands for 'corona,' 'VI' for 'virus,' and 'D' for disease. Formerly, this disease was referred to as "2019 novel coronavirus" or "2019-nCoV".

ISSUES:

To be discussed.

LEGAL SUFFICIENCY REVIEW:

None

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board hear the presentations and direct staff accordingly.

ALTERNATIVE RECOMMENDATIONS

None

FISCAL IMPACT:

RECOMMENDATION

None

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- | | | |
|--|---------------------------------------|---|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application | <input type="checkbox"/> Notice | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Resolution | |

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Agenda Item Summary

Additional Item

File ID: 20-0733

DEPT-2

Meeting Date: 5/15/2020

PLACEMENT: Departmental

TITLE:

WATER SAVINGS CLAUSE APPLICATION TO LAKE OKEECHOBEE SYSTEM OPERATING MANUAL

EXECUTIVE SUMMARY:

Recently, there have been efforts to extend the "Savings Clause" in Water Resources Development Act ("WRDA") 2000 to the ongoing development of the Lake Okeechobee System Operating Manual ("LOSOM") being conducted pursuant WRDA 2018 and other federal law including the National Environmental Policy Act ("NEPA"). Staff is requesting a Chair letter be sent to the House Transportation and Infrastructure Committee, the US Army Corps of Engineers, and our congressional delegation.

DEPARTMENT: Public Works

PREPARED BY: **Name:** Donna Gordon

Title: Executive Aide

REQUESTED BY: John Maehl, Ecosystems Restoration and Management Manager

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

The stakeholders advancing this extension are implicitly advocating for a prior Lake operation schedule, known as Water Supply and Environment ("WSE"), and the larger water storage capacity / supply benefits it mandates.

Staff vehemently oppose this effort for the basic principle that the Savings Clause applies to CERP "projects"; LOSOM is not a CERP project. Additionally, the application of this constraint on the LOSOM planning process greatly diminishes the potential flexibility of the process to meet the varied interests' and needs of all stakeholders involved in the LOSOM planning process through NEPA.

ISSUES:

There are varied opinions amongst stakeholders as to the legal application of the Savings Clause in LOSOM.

LEGAL SUFFICIENCY REVIEW:

This has been reviewed for legal sufficiency; however, it is primarily a matter of Board policy.

RECOMMENDED ACTION:**RECOMMENDATION**

- Move that the Board send a Chair letter to the House Transportation and Infrastructure Committee, the US Army Corps of Engineers, and our congressional delegation to express our opposition to requiring the "Savings Clause" to be applied to the Lake Okeechobee System Operating Manual development process.
- Move that the Board allow staff to have flexibility to allow changes to the format of the letter, add other government emblems, and any other minor non-substantive edits prior to releasing.

ALTERNATIVE RECOMMENDATIONS

None

FISCAL IMPACT:**RECOMMENDATION**

None

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- ☐ Budget Transfer / Amendment ☒ Chair Letter ☐ Contract / Agreement
☐ Grant / Application ☐ Notice ☐ Ordinance ☐ Resolution
☐ Other:

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May xx, 2020

The Honorable Peter Defazio
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
2167 Rayburn House Office Building
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Transportation & Infrastructure
U.S. House of Representatives
2167 Rayburn House Office Building
Washington, DC 20515

The Honorable Grace Napolitano
Chair
House T&I Subcommittee on Water Resources
and Environment
2167 Rayburn House Office Building
Washington, DC 20515

The Honorable Bruce Westerman
Ranking Member
House T&I Subcommittee on Water Resources
and Environment
2167 Rayburn House Office Building
Washington, DC 20515

Colonel Andrew Kelly
US Army Corps of Engineers
4070 Boulevard Center Drive
Jacksonville, Florida 32207

Sent via Email to: Andrew.d.kelly@usace.army.mil

Dear Colonel Kelly,

The undersigned local governments fully support the implementation of the Comprehensive Everglades Restoration Plan (“CERP”) and the development of effective Lake Okeechobee operations (“Lake operations”) that do not continue to damage coastal estuaries, Lake Okeechobee and the Greater Everglades ecosystem. Our local economies are dependent on a healthy environment to drive our tourism based economies and quality of life. Our communities have been fully engaged in the development, implementation and authorization of CERP projects and we have actively participated in separate, but related, efforts to modify Lake operations.

Recently, there have been efforts to extend the “Savings Clause” in Water Resources Development Act (“WRDA”) 2000 to the ongoing development of the Lake Okeechobee System Operating Manual (“LOSOM”) being conducted pursuant WRDA 2018 and other federal law including the

National Environmental Policy Act (“NEPA”). The stakeholders advancing this extension are implicitly advocating for a prior Lake operation schedule, known as Water Supply and Environment (“WSE”), and the larger water storage capacity / supply benefits it mandates. We vehemently oppose this effort for the basic principle that the Savings Clause applies to CERP “projects”; LOSOM is not a CERP project.

The Savings Clause itself was included in WRDA 2000 as *a protective mechanism* for “assurances” to prohibit an elimination or transfer of water due to CERP *project* implementation “until a new source of water supply of comparable quantity and quality as that available on the date of enactment of this Act is available to replace the water to be lost as a result of implementation of the Plan”. The Savings Clause was not crafted as *guarantee* for a certain quantity of water out of Lake Okeechobee (a source) from that point forward in perpetuity. The stakeholders advancing the extension of Savings Clause applicability are not simply relying on the protective aspect of the clause. Instead, they appear to be using the clause as a tool to extend federal protections for all Lake operations for their water supply benefit, thereby disregarding state water law.

Through multiple congressional authorizations since 2000, the Savings Clause has never been extended to apply to Lake operations, contrary to the arguments advancing the broad application of the Savings Clause. We find no authority within WRDA 2000 or its implementing regulations that extend the Savings Clause and the larger Lake storage capacity offered under WSE to all future regulation schedules. Since clearly WSE was the existing Regulation Schedule at the time of WRDA 2000, Congress could have expressly extended that application of the Savings Clause to WSE in this manner. Had Congress written that language into WRDA 2000, it would have made the WSE the only Lake schedule that could ever exist unless and until a comparable capacity of water sources was developed through subsequent CERP “projects.”

Congress has recognized that there would likely be modified Lake schedules in the future to include subsequent CERP projects that are authorized, but this is distinct from the Savings Clause that applies to CERP projects. CERP and its implementing regulations distinguish between CERP as a “Plan” and CERP “projects”. Revisions to Lake operations are not identified as separate CERP projects. Modifications of the schedule are not necessarily needed to implement individual CERP projects, but new schedules are necessary for the operation of the overall CERP Plan once additional components of the CERP Plan are completed and other needs for Central and Southern Florida (“C&SF”) purposes, such as flood control and enhancement of fish and wildlife.

Simply put, the result of such a proposed broad extension of the Savings Clause of WRDA 2000 to Lake operations would be to solidify in perpetuity a Lake Okeechobee operational regime that disregards the purpose of the current NEPA process. There have been significant changes in Florida since WSE was implemented in 2000. Among those changes are increases to the scientific body of the knowledge has grown considerably in regards to operation of the system’s infrastructure to address water quality and water quantity and the resulting environmentally devastating impact on the Florida ecosystem from prior and current Lake operations. A schedule in place at the time of WRDA 2000, a scientific blunt instrument by today’s standards with a predisposition to water supply and irrigation over ecosystem health, is not the base condition for

all Lake operations. Such an interpretation ignores other applicable Federal Law that applies, such as the Clean Water Act (“CWA”) and NEPA, when either a CERP or non-CERP project, or as in this case, a new Lake operation schedule is developed.

The bottom line is that our communities want to see CERP projects implemented, where storage north, south, east and west of Lake Okeechobee will provide water at the right quantity, quality, timing and distribution. Our communities also want a healthier Lake schedule through the LOSOM process as contemplated by WRDA 2018, and currently subject to a NEPA process, which should ensure that any future Lake schedule is not inconsistent with the goals and purposes of CERP.

CERP as a “Plan” is about ecosystem restoration and that includes the ecosystem as whole. The “projects” to achieve the CERP Plan require the application of the Savings Clause on a project by project basis. The Lake operation schedules are neither CERP projects nor were they ever intended to be subject to the application of the Savings Clause. Now is not the time for permanent policy changes that have immense environmental, and thus, economic impacts, ignoring decades of existing legal authority for implementation of CERP projects and new C&SF Lake operations.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

HAROLD E. JENKINS II, CHAIRMAN