

## **PART 4: ENVIRONMENTAL COMPLIANCE INFORMATION**

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## **C.4 Compliance with Environmental Laws, Statutes, and Executive Orders**

The following documents required compliance with specific federal Acts, Executive Orders (EOs) and other applicable environmental laws. The following sections provide a summary of environmental compliance with each Act, EO, or applicable law.

### **C.4.1 Anadromous Fish Conservation Act**

Anadromous fish species would likely not be affected by the proposed project. The National Marine Fisheries Service (NMFS) provided a Programmatic Biological Opinion for the Comprehensive Everglades Restoration Plan to the USACE on 17 December 2013. The LOWRP is in compliance with this Act.

### **C.4.2 Archaeological Resources Protection Act 1979**

This Act works to protect and preserve historical and cultural resources of federal lands, including Indian lands through a permit system authorizing scholarly study and excavation of cultural properties, as well as provide sanctions for unauthorized use, removal, or damage to any archaeological resource 54 U.S.C. §§320302-320303; 36 CFR Part 296. The term archaeological resource includes human remains, pottery, basketry, bottles, weapon projectiles, rock carvings and paintings, tools, structures, graves, skeletal remains, or portions thereof. 16 U.S.C. § 470bb(1). Resources of 'recent' origin (less than 100 years) are not protected by ARPA. *U.S. v. Shivers*, 96 F.3d 120 (5<sup>th</sup> Cir. 1996). The LOWRP is in compliance with this Act and will continue to comply throughout construction and operation.

### **C.4.3 Bald and Golden Eagle Protection Act**

The Bald and Golden Eagle Protection Act, enacted in 1940, prohibits anyone from "taking" bald eagles, including their parts, nests, or eggs without a permit issued by the Secretary of the Interior. While areas of foraging habitat utilized by bald eagle may be within the project area, impacts to these areas are not likely to adversely affect this protected species. The Biological Assessment (BA) was sent to the U.S. Fish and Wildlife Service (USFWS) on 22 June 2018. The Draft Biological Opinion (BO) was received from the USFWS on 19 November 2018. The project will be in compliance with this Act once the Final BO is received.

### **C.4.4 Clean Air Act of 1963**

The existing air quality within South Florida is considered good. Section 176 (c) of the Clean Air Act requires that federal agencies assure that their activities are in conformance with the federally approved Clean Air Act state implementation plans for geographical areas designated as "non-attainment" and "maintenance" areas under the Act. The proposed project is not located within a "non-attainment" area since there are none within the State of Florida. The only new potential source of air pollution as a result of this project would be from construction of pump station(s). Pursuant to sub-subparagraph 62-210.300(3)(a)21.b., F.A.C., operations staff must determine if stations would be exempt from air permitting or if an air general permit would be required. Upon this determination, the project would be in compliance with this Act.

### **C.4.5 Clean Water Act of 1972**

Full compliance would be achieved with issuance of a Water Quality Certification (WQC) under Section 401 from the State of Florida. A Section 404 (b)(1) evaluation is in **subsection C.4.39**. During construction,

the project may require dewatering permits and National Pollutant Discharge Elimination System (NPDES) permits depending on means and methods of construction. All required permits will be obtained prior to construction activities. All State water quality standards would be met. The proposed project will not adversely impact water quality. This project complies with the Clean Water Act (CWA).

#### **C.4.6 Coastal Barrier Resources Act and Coastal Barrier Improvement Act of 1990**

The official Coastal Barrier Resources System (CBRS) maps were reviewed. The LOWRP project does not fall into any designated Coastal Barrier Resources Act (CBRA) areas. Therefore, these Acts are not applicable to this project.

#### **C.4.7 Coastal Zone Management Act of 1972**

A Federal Consistency determination was prepared in accordance with the provisions of 15 CFR Part 930 and is located in **subsection C.4.39**. The USACE considered the enforceable policies of the State of Florida's management program as requirements to be adhered to in addition to existing federal agency statutory mandates. The proposed project is consistent with the enforceable policies of Florida's approved Coastal Zone Management program to the maximum extent practicable. A letter was received on 6 September 2019 from the State Clearinghouse stating that based on the information submitted and minimal project impacts, the state has no objections to the subject project and, therefore, it is consistent with the Florida Coastal Management Program (FCMP). This project will be in compliance upon review of this PIR/EIS by the State of Florida and issuance of WQC.

#### **C.4.8 Endangered Species Act of 1973**

The USACE coordinated the proposed project with the USFWS and NMFS. The USACE requested concurrence from the USFWS on federally listed species and critical habitat that may be present in the project area in a letter dated 1 July 1. The USFWS provided concurrence on the species list on August 23, 2016. Consultation with the USFWS was initiated on June 22, 2018 with preparation of a BA. See **Annex A** for the complete list of federally listed species and critical habitat provided in the BA that was prepared for this project. The USFWS provided a Draft Biological Opinion on 19 November 2018. With continued coordination with USFWS, it was determined that a supplemental BA was not needed based on coordination of the Recommended Plan with the USFWS. Effects determinations on federally listed species in the BA submitted concurrent with the Draft Integrated Project Implementation Re-report and Environmental Impact Statement (PIR/EIS) remained the same. Direct and/or indirect impacts within the action area resulting from the Recommended Plan remained the same. The Final Biological Opinion will be included in **Annex A** upon receipt.

The NMFS provided a Programmatic Biological Opinion for the Comprehensive Everglades Restoration Plan to the USACE on 17 December 2013 which includes the LOWRP. No further NMFS consultation is required.

#### **C.4.9 Estuary Protection Act of 1968**

The proposed project increases the opportunities to redirect water that currently flows to the Caloosahatchee and St. Lucie Estuaries (collectively referred to as the "Northern Estuaries") for flood control purposes, allowing for the re-establishment of oyster and sea grass populations that are important for providing water quality and habitat functions within the northern estuaries. The proposed project complies with the Act.

#### **C.4.10 Farmland Protection Policy Act of 1981**

Coordination with the United States Department of Agriculture (USDA) and National Resources Conservation Service (NRCS) to meet the requirements of the Farmland Protection Policy Act, 7 U.S.C. § 4201, is ongoing. Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops. The land is also used as cropland, pastureland, rangeland, forestland, or other land, but cannot be used as urban built-up land. According to 7 CFR § 657.5, unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. Most of the land in central and southern Florida used for agricultural production has been designated unique farmland, these lands are used in producing feed, food, fiber, forage, and/or oilseed crops. Coordination with NRCS was initiated during the planning phase and NRCS identified 10,596 acres of farmland which is 0.0214 %. It was determined that additional analysis was not needed at this time based on the change in footprints for the Recommended Plan. Additional coordination will occur during PED phase. Additional coordination will occur during the PED phase. The proposed project is in compliance with the goals of this Act.

#### **C.4.11 Federal Water Project Recreation Act of 1965, As Amended**

The effects of the proposed action on outdoor recreation were considered and are presented in **Appendix F**. The LOWRP recreation plan identifies, evaluates, and addresses the impacts of LOWRP implementation on existing recreational use within the South Florida ecosystem and identifies and evaluates potential new recreation, public use, and public educational opportunities. Continued recreation planning is performed during detailed project engineering and design. This project would not adversely affect existing recreational opportunities. Instead, it will create new recreational opportunities within the Lake Okechobee watershed. This project complies with the Act.

#### **C.4.12 Fish and Wildlife Coordination Act of 1958, As Amended**

The central objective of the Fish and Wildlife Coordination Act is to allow for equal consideration of wildlife resources. Representatives from the USFWS were involved in project planning, development, and evaluation, focusing on the effects to fish and wildlife resources and natural wildlife management areas. USFWS provided a Draft Fish and Wildlife Coordination Act Report (CAR) on 15 June 2018 and it has been included within **Annex A**. The Final CAR is included in **Annex A**. The project complies with the Act.

#### **C.4.13 Magnuson-Stevens Fishery Conservation and Management Act**

The Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 et seq. and Public Law 104-208, reflects the secretary of Commerce and Fishery Management Council authority and responsibilities for the protection of Essential Fish Habitat (EFH). Federal agencies that fund, permit, or carry out activities that may adversely impact EFH are required to consult with the NMFS regarding the potential effects of their actions on EFH. The USACE coordinated with the NMFS on this project. A draft EFH assessment was provided on 6 July 2018. Given the restoration opportunities provided by the proposed project, the USACE anticipates concurrence with the determination that the LOWRP should benefit EFH. The EFH assessment is included in **subsection C.4.39.7.8**. Upon final review of the EFH assessment from the NMFS, the proposed project would be in full compliance with this Act.

**C.4.14 Marine Mammal Protection Act of 1972**

West Indian manatees inhabit the coastal and major inland waters of south Florida, including Central and Southern Florida Project canals. Manatees are not expected to be adversely affected by the proposed project. Early consultation with the USFWS was initiated for the manatee (**Annex A – Biological Assessment**). The proposed project incorporates safeguards used to protect the West Indian manatee and other threatened and endangered species during construction and operation. The USACE complies with and will be in full compliance with the Act at the time of construction.

**C.4.15 Marine Protection, Research and Sanctuaries Act**

This Act is not applicable. Ocean placement is not a component of this project.

**C.4.16 Migratory Bird Treaty Act of 1918**

Migratory and resident bird species have been observed within the project area and are likely to use available habitat for foraging, nesting, and breeding. The proposed project is not expected to destroy migratory birds, their active nests, eggs, or hatchlings. The proposed project is expected to benefit migratory birds by improving habitat and increasing availability of forage species (amphibians, fish, and aquatic invertebrates) for wading birds. Migratory bird surveys will be constructed prior to construction. The USACE is in compliance and will be in full compliance with the Act at the time of construction.

**C.4.17 National Environmental Policy Act of 1969**

This Act encourages public participation and comment on federal projects, and requires agencies to cooperate with other federal agencies, State, and local governments, and to involve public stakeholders. Initial public coordination for this project began with the distribution of a scoping letter dated June 28, 2016 announcing the preparation of the Draft EIS and inviting public and agency comment (**Appendix C, Part 3**). On 18 July 2016 a NOI to prepare an EIS was published in the Federal Register (FR Volume 81, Number 137). A public scoping meeting was held on July 26, 2016. Environmental information on this project has been compiled, and a Draft EIS has been prepared. A Notice of Availability of the Draft EIS was published in the Federal Register (83 FR 130; 83 FR 31535) on 6 July 2018 and mailed to interested stakeholders to begin the 45-day review period. The review period closed on 20 August 2018. Public meetings were held on 31 July 2018 in Lehigh Acres, FL; 1 August 2019 in Stuart, FL; and 2 August in Okeechobee, FL. A Revised Draft Integrated Project Implementation Report and Environmental Impact Statement (PIR/EIS) Notice of Availability (NOA) letter dated July 5, 2019 was mailed to stakeholders soliciting comments for this action. The NOA letter was used to invite comments from Federal, State, and local agencies, affected Indian Tribes, and other interested private organizations and individuals. Comments were accepted through September 3, 2019. A NOA for the Revised Draft Environmental Impact Statement (EIS) for the LOWRP was published in the Federal Register (84 FR Volume 3216883) July 5, 2019. All comments received during the public meetings and the review periods, along with responses are included in **Appendix C.3**. Upon public and agency review and comment on this Final EIS and the signing of the Record of Decision, this project would be in full compliance with this Act.

**C.4.18 National Historic Preservation Act of 1966 (Inter alia)**

The proposed project complies with the National Historic Preservation Act, as amended (PL 89-665). As part of the requirements and consultation process contained within the National Historic Preservation Act implementing regulations of 36 C.F.R. § 800 (2018), this project is also in compliance with the

Archaeological and Historic Preservation Act, as amended (PL 93-291); Archeological Resources Protection Act (PL 96-95); American Indian Religious Freedom Act (PL 95-341); EOs 11593, 13007, and 13175; the Presidential Memo of 1994 on Government-to-Government Relations and appropriate Florida Statutes. Pursuant to 36 CFR § 800.4[b][2] ), the USACE will employ a phased process in the identification and evaluation of historic properties and an assessment of effects through the execution of a programmatic agreement (PA) among the USACE, State Historic Preservation Officer (SHPO), and the he Advisory Council on Historic Preservation (ACHP). The PA outlines the process in which the Corps, through consultation, will identify historic properties within the APE, determine effects of the undertaking to historic properties if present, and avoid, minimize, or mitigate adverse effects during the PED phase. Pursuant to Section 106 of the NHPA, consultation on LOWRP and the execution of a PA was undertaken with the STOF's Tribal Historic Preservation Office (THPO), the MTIF NAGPRA Representative, the Florida SHPO, the Seminole Nation of Oklahoma THPO, the ACHP, the Thlopthlocco Tribal Town THPO, and the public. Consultation with the Florida SHPO, appropriate federally recognized tribes, and other interested parties was initiated June 24, 2016. Any additional project specific surveys for cultural resources and historic property evaluations will be conducted during the Pre-construction Engineering and Design Phase of the project. Each suite of features will be consulted on as they arise to ensure that the most up to date information will be considered in the subsequent determination of effects. National Register eligible properties were taken into account while planning this undertaking. The USACE is currently in compliance through execution of a PA and will continue to meet the requirements of this act throughout construction and operation.

#### **C.4.19 Native American Graves Protection and Repatriation Act as Amended**

Federal agencies must inventory all Indian human remains and funerary objects in its possession and control, attempt to identify the affiliated tribe(s), and repatriate the items to the appropriate group. This Act also applies to inadvertent discoveries. There is a required delay in the disturbance of a site containing human remains until consultation with affiliated tribes is accomplished. The USACE is currently in compliance and will continue to meet the requirements of this act throughout construction and operation.

#### **C.4.20 Resource Conservation and Recovery Act, As Amended By the Hazardous and Soils Waste Amendments of 1984, CERCLA As Amended by the Superfund Amendments and Reauthorization Act of 1966, Toxic Substances Control Act of 1976**

Hazardous, toxic, and radioactive waste (HTRW) surveys will be conducted as required. The removal and excavation as described in the proposed action is not expected to result in the discovery or generation of HTRW materials. The proposed action involves ground disturbances. The USACE is currently in compliance and will continue to meet the requirements of this act throughout construction and operation.

#### **C.4.21 USACE – Comprehensive Everglades Restoration Policy – Residual Agricultural Chemicals, USACE-ASA-CW Policy, September 2011**

To address the issues presented by low-level residual agricultural chemicals present on CERP project lands, the Assistant Secretary of Army for Civil Works issued a policy memorandum on September 14, 2011. A copy of the policy is attached and incorporated into the formulation of the proposed project.

**C.4.22 Rivers and Harbors Act of 1899**

The proposed project will not obstruct navigable waters of the United States. The project was subjected to public notice and other evaluations normally conducted for activities subject to the Act. The proposed project complies with this Act.

**C.4.23 Submerged Lands Act of 1953**

The proposed project reduces freshwater flows to the Caloosahatchee and St. Lucie Estuaries, ultimately benefitting the ecological habitats occurring on submerged lands of the State of Florida. No construction is expected on submerged lands; therefore, the project is in compliance with this Act.

**C.4.24 Wild and Scenic Rivers Act of 1968, As Amended**

There are no designated wild and scenic river reaches within the project area that would be affected by project related activities. This Act is not applicable.

**C.4.25 EO 11514, Protection and Enhancement of Environmental Quality**

EO 11514 directs federal agencies to “initiate measures needed to direct their policies, plans, and programs so as to meet national environmental goals.” The objectives of the project are focused on environmental protection. The project complies with this EO.

**C.4.26 EO 11593, Protection and Enhancement of the Cultural Environment**

EO 11593 directs federal agencies to “provide leadership in preserving, restoring, and maintaining the historical and cultural environment of the Nation. Agencies of the executive branch of the Federal Government shall (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations, (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the people, and (3), in consultation with the Advisory Council on Historic Preservation (54 U.S.C.S. § 304101 (2018)), institute procedures to assure that federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archaeological significance. The project complies with this EO.

**C.4.27 EO 11988, Floodplain Management**

EO 11988 directs federal agencies to avoid siting projects in floodplains and to avoid inducing further development of flood-prone areas. The project is not a development but rather a restoration action. Commitment of lands to project restoration would preclude such development. The proposed action helps restore and preserve the natural and beneficial uses of the floodplain. The project will be operated in a manner that does not increase flooding of private property. The project complies with the goals of this EO.

**C.4.28 EO 11990, Protection of Wetlands**

EO 11990 directs federal agencies to avoid developing and locating projects in wetlands. The proposed project area is located within freshwater wetlands. This project involves operations in wetlands. No other

practicable alternative to locating this project in avoidance of wetland exists. The objectives of the project are focused on environmental protection. A net functional benefit to wetlands within and adjacent to the project area is expected. The project complies with this EO.

#### **C.4.29 EO 12962, Recreational Fisheries**

EO 12962 requires the evaluation of federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries. Proposed action is expected to have a beneficial effect with slight improvements in recreational fisheries in the Northern Estuaries. Proposed action may have a significant impact on the entrainment and impingement of fish and aquatic invertebrates in ASR wells if the ASRs operate at times of the year when these organisms are present in the surface water. To minimize this impact, where ASR wells are co-located with the WAF, the ASR pumps will pull water from the WAF, not the canals. In locations where the ASR wells pull directly from canals, the intakes will be designed with screens having a pore size of 1 mm and an anticipated intake velocity at the screen face of 0.25 ft/sec or installing a Gunderboom system. During PED, the USACE will look to minimize risks by considering installing gravity flow intake systems at C-41A and upstream of S-65E to feed into the northern boundary of the WAF, determine the WAF and ASR well intake operations based on results from the potential risk assessment and population studies, consider installing in-bank filtration system adjacent to the Kissimmee River to minimize the risk to fisheries and recreation, consider installing more than one intake system for each storage feature or well to reduce intake velocities and the size of the intake cone, and consider using WAF water and collocating with facilities with planned storage features. The USACE is currently in compliance and will continue to meet the requirements of this act throughout construction and operation.

#### **C.4.30 EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations**

EO 12898 directs federal agencies to provide full participation of minorities and low-income populations in the federal decision-making process, and further directs agencies to fully disclose any adverse effects of plans and proposals on minority and low-income populations. There was sufficient public input to feel confident that scoping was successful and that the breadth of the potential impacts were communicated and understood by the public. The objectives of the project are focused on environmental protection. Implementation of the project would benefit all population groups by providing restoration of wetlands and other natural resources within the project area. The LOWRP benefits quality of life by improving the estuarine environment and contributing to hydrological improvements in the Okeechobee watershed. The project would improve the quality of human life by providing improved estuarine conditions for fish and wildlife. This translates into aesthetic and economic benefits for sport fishing and other recreational communities. However, during PDT meetings, public meetings, and government-to-government consultations, issues were presented as possible environmental impacts that may be disproportionate towards minority and or low-income populations.

An environmental justice analysis was conducted (**Appendix C, Part 2**). It determined that the project would not result in adverse human health or environmental effects. The project would not disproportionately adversely affect any minority or low-income population. The proposed activity would not (a) exclude persons from participation in, (b) deny persons the benefits of, or (c) subject persons to discrimination because of their race, color, or national origin, nor would the proposed action adversely impact "subsistence consumption of fish and wildlife." Therefore, the project complies with this EO.

**C.4.31 EO 13045, Protection of Children from Environmental Health Risks and Safety Risks**

Pursuant to EO 13045, each federal agency must “identify and assess environmental health risks and safety risks that may disproportionately affect children, and ensure that its policies, programs, activities, and standards address disproportionate risks to children that results from environmental health risks or safety risks.” The proposed project will not result in environmental health risks or safety risks that may have a disproportionate effect on children. Children will not be near any of the construction operations and activities should not have an impact on children. The project complies with this EO.

**C.4.32 EO 13089, Coral Reef Protection**

There are no hardground or coral reef communities located within the proposed project site or the nearshore waters affected by the project. The project is not expected to adversely impact coral reefs or coral reef resources. This EO is not applicable.

**C.4.33 EO 13122, Invasive Species**

The proposed project has the potential to allow expansion of exotic and/or invasive species, due to construction and operational changes to the current water management system. Construction measures to reduce the spread of exotic and/or invasive species will be included in the contract specifications. A nuisance and exotic vegetation control plan was prepared and is included in **Annex D**. The plan objectives are to prevent and/or reduce the establishment of non-native species within the project area. The project complies with this EO.

**C.4.34 EO 13175, Consultation and Coordination with Indian Tribal Governments**

EO 13175 sets forth fundamental principles to guide agencies in formulating and implementing policies that have tribal implications. The EO also sets forth policymaking criteria to which agencies must adhere to the extent permitted by law. These principles and policymaking criteria apply to an agency’s “regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes” (Sec.1(a)). The project complies with this EO. See **Appendix C, Part 3** and **Part 5**, for further details.

**C.4.35 EO 13186, Responsibilities of Federal Agencies to Protect Migratory Birds**

Migratory and resident bird species have been observed within the project area and are likely to use available habitat for foraging, nesting, and breeding. The proposed project will have minimal impact on migratory birds, their active nests, their eggs, or their hatchlings during contraction. However, the proposed project is expected to benefit migratory birds by improving habitat and increasing availability of forage species (amphibians, fish, and aquatic invertebrates) for wading birds. The project complies with this EO.

**C.4.36 Memorandum on Government-to-Government Relations with Native American Tribal Governments 1994**

This Presidential Memorandum directs the Federal Government to operate within a government-to-government relationship with federally recognized Native American tribes. The head of each executive

department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments. Each executive department and agency shall apply the requirements of the EO 12875 (“Enhancing the Intergovernmental Partnership”) and EO 12866 (“Regulatory Planning and Review”) to design solutions and tailor federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities. The USACE consulted with the MTIF, STOF, Seminole Nation of Oklahoma, and Thlopthlocco Tribal Town during the NEPA process and during planning efforts for the LOWRP. This project complies with this memorandum. Coordination letters are included in **Appendix C, Part 3** and **Part 5**.

#### **C.4.37 Seminole Indian Lands Claim Settlement Act of 1987**

The Florida Indian (Seminole) Land Claims Settlement Act of 1987 directed the SFWMD, the State of Florida, and Seminole Tribe of Florida (STOF) to execute an agreement for the purposes of resolving tribal land claims and settling the lawsuit filed by the STOF. Agreements to resolve tribal land claims were executed between the three parties, which included conveyance of land and payment of consideration to the tribe, and implementing legislation by the United States Congress and Florida Legislature. An agreement known as the Water Rights Compact (Compact) was also executed between the State of Florida, SFWMD, and STOF. The Compact specifically defined STOF’s water rights. This Compact was adopted into federal and state law. It includes a series of provisions establishing the Tribe’s rights and creating several “entitlements” to water for three of the Tribe’s reservations. The STOF’s Big Cypress and Brighton reservation lie within the LOWRP study area. Water supply deliveries to these reservations are not significantly affected by the LOWRP. Any modeled decreases in water supply deliveries would not be expected under real-world conditions due to the Compact requirements. Complete performance summaries for water supply to the reservations are included in **Appendix C, Part 2**. This project complies with this Act.

#### **C.4.38 Compliance with Florida Statutes**

The State of Florida enacted several laws pertaining to the implementation of the CERP projects. Sections 373.1501 and 373.470, Florida Statutes (F.S.), set out the intent of the Florida Legislature regarding CERP and require the SFWMD to submit a report for review and approval by the Florida Department of Environmental Protection (FDEP). According to Section 373.026(8)(b) F.S., each project component must be submitted prior to formal submission of a request for authorization from Congress and prior to receiving an appropriation of state funds for construction and other implementation activities (except the purchase of lands from willing sellers). Section 373.026 F.S. also lays out the criteria for FDEP approval and the procedures to be followed by the SFWMD and FDEP for submitting and reviewing requests for approval. Section 373.1502 F.S. establishes permitting requirements and procedures for the for certain permits for CERP projects. Sections 373.470 and 373.472 F.S. create the “Save Our Everglades Trust Fund,” and identify the funding and reporting requirements and procedures for distributions from the trust fund.

The SFWMD’s State Compliance Report addressing the criteria for approval listed in Section 373.1501 F.S. is included in **Annex B**. In addition to the above-described statutory requirements, other sections of Chapters 373 (Water Resources) and 403 (Environmental Control) of the Florida Statutes, including requirements that may apply to various aspects of CERP project planning and implementation. Chapter 403, F.S., and the implementing rules contain the requirements for facilities that discharge or potential discharge of pollutants to surface and groundwaters, and the discharge of air pollutants, including facilities regulated under the Federal Clean Water and Safe Drinking Water Acts and the Federal Clean Air Act. Based on the information contained in this PIR, the Recommended Plan complies with the applicable

Florida Statutes. A detailed explanation of how the project complies with the applicable requirements for CERP projects contained in the Florida Statutes can be found in **Annex B**.

### C.4.39 Clean Water Act Section 404(b)(1) Evaluation

The Section 404(b)(1) Evaluation for the LOWRP EIS addresses, at a general level, the potential environmental effects of the wetland and aquatic ecosystem alterations expected from dredge and fill and the construction of the structural components of the Recommended Plan. Subsequent, site-specific, Section 404(b)(1) Evaluations are intended to be done for individual project components, or groups thereof, insufficient detail for final decision making and for full compliance with the Section 404(b)(1) Guidelines and National Environmental Policy Act requirements. The Section 404(b)(1) Evaluation should be sufficient to qualify for, and in the event that subsequent decisions render the project in compliance with, coverage under Section 404(r) of the Clean Water Act and exempt from State and Tribal Water Quality Certification. During plan formulation, it was determined that this plan is the alternative that meets project objectives and is the least environmentally damaging practicable alternative (LEDPA) that is cost effective (**Appendix E**).

#### C.4.39.1 Location

The study area (**Figure C.4-1**) for the LOWRP encompasses the Lake Okeechobee watershed, Lake Okeechobee, and the Northern Estuaries (the Caloosahatchee Estuary and the St. Lucie Estuary).

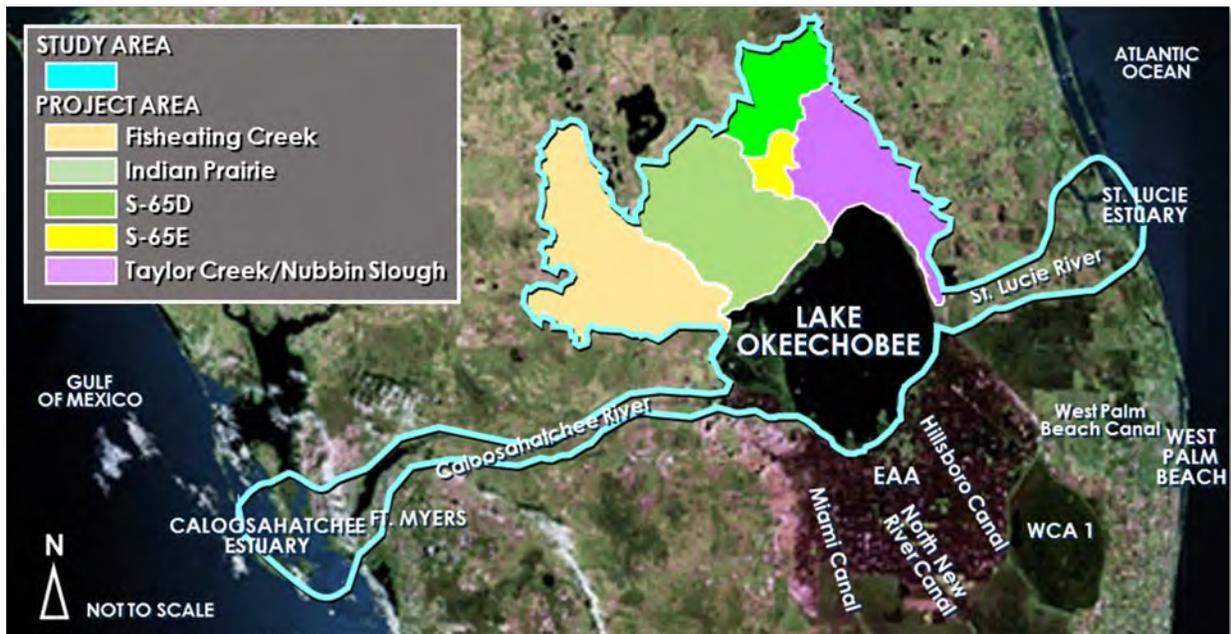


Figure C.4-1. Project area map.

### C.4.39.2 Project Description

The components of the Recommended Plan, Alternative (Alt) 1BWR, are organized into three geographic areas: Lake Okeechobee Watershed, Lake Okeechobee and the Northern Estuaries. The Recommended Plan, Alternative 1BWR, includes a wetland attenuation feature (WAF) located in the K-05 footprint, 80 total ASR wells (55 watershed ASR wells and 25 wetland attenuation ASR wells in the WAF area), and the Paradise Run and Kissimmee River Center wetland restoration sites (**Figure C.4-2**).

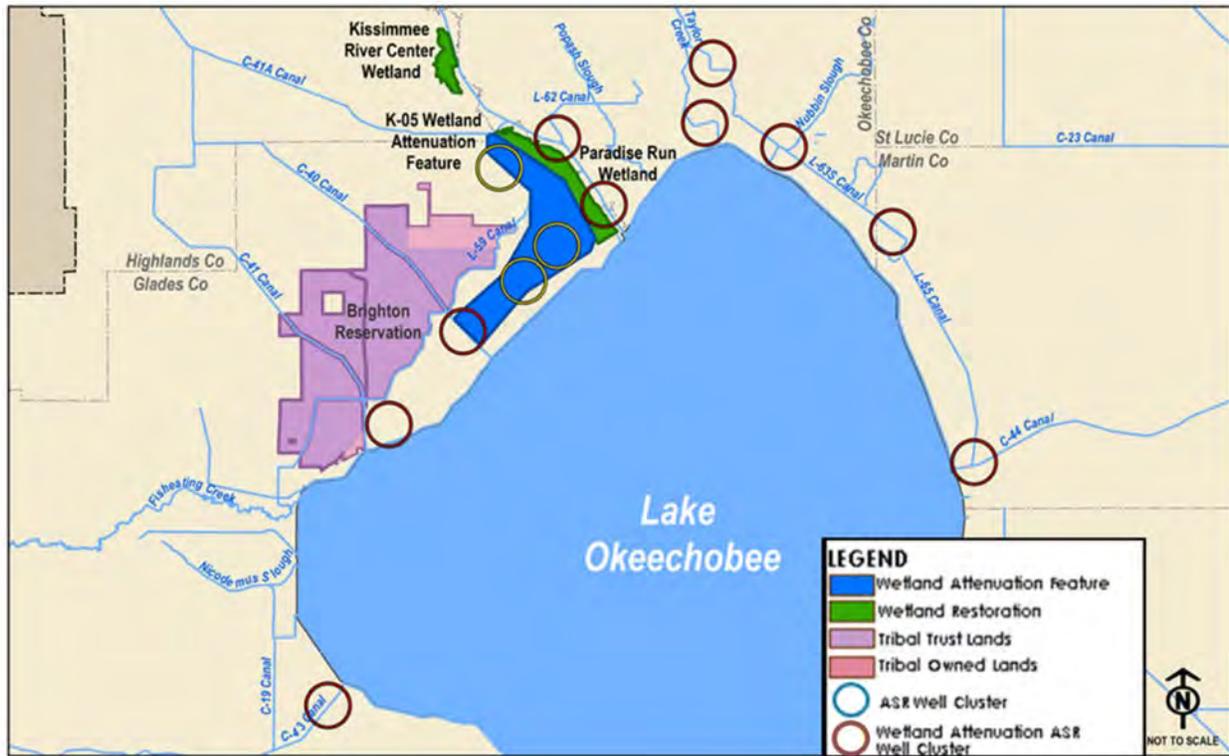


Figure C.4-2. LOWRP Recommended Plan footprint.

#### C.4.39.2.1 Wetland Attenuation Feature

The WAF is located in the K-05 footprint within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the STOF Brighton Reservation, and south of the C-41A Canal. The WAF is used for surface water storage to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. ASR wells will be co-located with the WAF providing synergistic facility attributes, improving operational flexibility, maximizing ecological performance for the Northern Estuaries, and minimizing the need for additional infrastructure, thereby saving capital construction costs and long-term operations and maintenance requirements. Co-locating ASR with the WAF increases overall WAF storage capabilities without increasing land acquisition requirements. The WAF footprint, including the embankments, seepage canal, and other perimeter features, is approximately 13,600 acres with a storage capacity of approximately 46,000 ac-ft. A pump station located downstream of the existing S-84 structure on the C-

41A canal serves as the water source for the proposed WAF. The pump draws water from the downstream area that is considered part of Lake Okeechobee.

#### **C.4.39.2.2 Aquifer Storage and Recovery Wells**

A total of 80 ASR wells are proposed in clusters in various locations throughout the watershed. The number of wells in each location has not yet been determined. The wells will utilize the Upper Floridan aquifer (UFA) and the Avon Park Permeable Zone (APPZ) for storage and recovery.

- **Wetland Attenuation ASR Wells:** Wetland attenuation ASR wells can be used to increase the total storage capacity of the WAF. There are three well clusters (25 wells) co-located with the WAF. They would draw water from C-38 downstream of S-65 E (Lake Okeechobee) and release either into the WAF, Paradise Run Wetland, or back into the C-38 downstream of S-65 E (Lake Okeechobee).
- **Watershed ASR wells:** The remaining 55 ASR wells are located throughout the watershed.
  - One proposed cluster is located adjacent to the C-44 canal in Port Mayaca. This would flow out of the C-44 into Lake Okeechobee or to the St. Lucie River Estuary.
  - Three potential cluster areas are located in the S-191 subwatershed. Some of the wells would be adjacent to the L-63N canal and the rest would be adjacent to the L-63S canal. These would all flow into the Lake at the S-191 structure.
  - One cluster is located along Taylor Creek, downstream of S-192 and upstream of the S-133 pump station which flows to Lake Okeechobee.
  - Two potential clusters are located adjacent to the C-38 canal downstream of S-65E that can flow back into the C-38 canal
  - There is a well cluster along C-40 canal downstream of S-72 that can flow to Lake Okeechobee.
  - There is a well cluster along C-41 canal downstream of S-71 that can flow to Lake Okeechobee.
  - There is a well cluster along the C-43 canal in Moore Haven that can flow to Lake Okeechobee or the Caloosahatchee River.

#### **C.4.39.2.3 Wetland Restoration Sites**

The wetland restoration component includes the Paradise Run and Kissimmee River Center features. The Paradise Run site is approximately 3,500 acres containing historic Kissimmee River channel and floodplain. The site is located downstream of S-65E on the west bank of the C-38 Canal, between the C-41A canal and the Buckhead Ridge community. A pump station on the C-41A Canal downstream of S-84 serves as the water source, drawing water into the historic Kissimmee River channel running through the Paradise Run site. This will aid in restoring the natural flow to the river and hydroperiod to the floodplain wetlands. The pump station will. About 24,500 linear feet of channel excavation will be performed. An overflow weir will be placed between the north and south sections of Paradise Run to control the flow and to connect both sides through the L-59 berms. The flow will release back into the C-38 Canal via a culvert through the Herbert Hoover Dike (HHD) on the southeast corner of the site.

The Kissimmee River Center site is approximately 1,200 acres. It is located on the west bank of the C-38 Canal about halfway between S-65D and S-65E. A submerged weir will be placed in the C-38 canal at the north end of the site to divert water to the west into a created river channel mimicking the historic Kissimmee River. About 21,500 feet of channel excavation will be performed to create riverine habitat and new floodplain wetlands.

#### **C.4.39.3 Authority and Purpose**

The CERP was approved in Section 601 of Water Resources Development Act (WRDA) of 2000. The authority for the preparation of the LOWRP PIR, one of several site-specific projects, is contained in Section 601(d) WRDA 2000. The U.S. Army Corps of Engineers (USACE) and the SFWMD executed a Design Agreement for the design of elements of the CERP and South Florida Ecosystem Restoration project (Design Agreement, May 2000). The direction and guidance for the development of the LOWRP are contained within the CERP Master Program Management Plan (MPMP), which was developed and approved by USACE and SFWMD for the purposes of describing the framework and processes to be used for managing and monitoring implementation of CERP.

The C&SF Flood Control Project, as constructed, had unintended adverse impacts to the Greater Everglades, including the Lake Okeechobee, the Northern Estuaries, WCA 3, ENP, and Florida Bay. Historically, freshwater flowed southward from Lake Okeechobee to Florida Bay from surface (sloughs, transverse glades, and overland from through wetlands) and groundwater sources. This resulted in a mosaic of vegetative communities as well as narrower range of salinity fluctuations in Florida Bay than occurs today. While historic conditions sustained healthy and extensive ecological communities (ridge and slough, wet prairies, tree islands, sawgrass prairies, mangrove communities, and seagrass beds), these communities have been degraded under the managed system. The purpose of LOWRP is to improve the quantity, timing, and distribution of water flows into Lake Okeechobee and the northern estuaries.

#### **C.4.39.4 General Description of Dredged or Fill Material**

Several project features are expected to involve the release of dredged or fill material into wetlands or other aquatic resources or excavation in wetlands for conveyance purposes. However, specific information is unknown at this time. Additional Section 404(b)1 documents will be done for individual features when actual fill material needs are identified. The specific characteristics (general characteristics discussed below), quantities, and sources of dredged or fill material would be determined during planning and design activities for each component.

##### **C.4.39.4.1 General Characteristics of Material**

The surficial geology of the LOWRP project area consists of Holocene freshwater peat and organic soils deposited within the Kissimmee River alluvial floodplain. The floodplain is over-drained and stranded due to straightening of the C-38 canal. The Paradise Run area is an example of a stranded, over-drained floodplain in which existing meanders and oxbow lakes are filling in with fine-grained sediments and vegetation. Organic soils (mucks) on the floodplain and depressional wetlands are still classified as hydric soils as these areas are saturated during high lake stages. Away from the floodplain on Indian Prairie, the surficial geology consists of Holocene soils developed on nearshore marine sands and silts that were deposited during the last high seas stand approximately 120,000 years ago. The geomorphic setting of the Indian Prairie sub-basin is best described as a dry prairie with depressional wetlands that are saturated during the wet season.

The material may be reused or would be placed offsite in a Class 1 landfill. Soil testing would be conducted to better define the soil characteristics and, as a result of that soil testing, other placement options may be pursued.

#### **C.4.39.4.2 Quantity of Material (cubic yards)**

Material would be produced for placement with the construction of the wetland components. We expect that the material in the dredged channels will be unsuitable for embankment or other use and will be placed on site. Any material suitable for embankments will be used for the WAF embankments. Kissimmee River Center is estimated to require 300,000 cubic yards of dredge. Paradise Run is estimated to require 450,000 cubic yards of dredge. The material will be placed on site or possibly on the WAF site.

Material is needed to construct the WAF embankments. The WAF is estimated to require 6,300,000 cubic yards of fill. Unsuitable embankment foundation material encountered on site will be placed within the WAF footprint.

#### **C.4.39.4.3 Source of Material**

The fill material is expected to consist of 75% material excavated from within the WAF footprint and 25% material imported from off site. The location(s) of the import fill have not been identified. Existing mounds of excavated material would be used to backfill and augmented when necessary with clean fill.

#### **C.4.39.5 Description of the Proposed Discharge Site**

##### **C.4.39.5.1 Location**

The excess excavated material would be used for embankment fill or placed in the WAF footprint. The excavated material is not expected to be moved offsite.

##### **C.4.39.5.2 Size**

There will not be a discharge site outside of the WAF footprint.

##### **C.4.39.5.3 Site**

A confined site on the WAF footprint would be used.

##### **C.4.39.5.4 Habitat**

The excavated material would be placed in the WAF footprint.

##### **C.4.39.5.5 Timing and Duration of Discharge**

Installation timing of the project features has yet to be determined. The time and duration of discharge would be further defined during the detailed design phase.

#### **C.4.39.6 Description of Placement Method**

The excavated material would be trucked to placement or staging stockpile areas.

**C.4.39.7 Factual Determinations (Section 230.11)****C.4.39.7.1 Physical Substrate Determinations****C.4.39.7.1.1 Substrate Elevation and Type**

The natural topography of the area is nearly flat with slopes less than two percent, with the exception of the unnatural features (canals and levee).

**C.4.39.7.1.2 Sediment Type**

The substrate at the installation site, WAF, is calcium carbonate limestone rock overlain with sandy and silty soils.

**C.4.39.7.1.3 Dredge/Fill Material Movement**

There will be substantial movement of material for this project. The dredged material from the wetland channels will likely be placed in the WAF footprint. About 75% of the embankment fill is expected to come from within the WAF footprint. The perimeter canal excavation will be used as embankment fill or placed inside the WAF footprint. Best management practices would be employed during construction to control movement of sediment into undisturbed areas and areas outside the construction footprint.

**C.4.39.7.1.4 Physical Effects on Benthos**

No adverse impacts to benthic organisms are anticipated other than displacement of those organisms in the construction footprint of the proposed project.

**C.4.39.7.2 Water Circulation, Fluctuation, and Salinity Determination**

An ecological monitoring plan (**Annex D**) was developed to monitor hydrology, water quality, and associated changes within the project area.

**C.4.39.7.3 Suspended Particulate/Turbidity Determinations**

In general, any short-term impacts to water quality associated with construction of the project would be ameliorated by construction sequencing, best management practices for erosion and sedimentation control, and monitoring during construction. Longer-term impacts to water quality not associated with fill and associated with the operation of project features would be addressed through operational monitoring and adaptive management actions, if potentially adverse effects are observed or predicted.

**C.4.39.7.3.1 Expected Changes in Suspended Particulates and Turbidity Levels in the Vicinity of the Placement Site**

Although site-specific information is unknown at this time, temporary localized increases in suspended particulates and turbidity levels can be expected during construction of some of the project features. Such increases are generally short-term and insignificant. All appropriate measures to reduce and contain turbidity would be employed to prevent violations of state water quality standards.

**C.4.39.7.3.2 Effects on Chemical and Physical Properties of the Water Column****C.4.39.7.3.2.1 Light Penetration**

During construction operations there would be a temporary insignificant reduction in light penetration in the canals in the immediate vicinity of the activity. Once construction is complete, light penetration is expected to return to pre-construction levels.

**C.4.39.7.3.2.2 Dissolved Oxygen**

During construction operations there would be a temporary reduction in the dissolved oxygen content in the water column due to organic sediment oxygen demand from the disturbed soils in the immediate vicinity of the activity. Once construction is complete, dissolved oxygen is expected to return to pre-construction levels.

**C.4.39.7.3.2.3 Toxic Metals, Organics, and Pathogens**

Generally, no toxic metals, anthropogenic organics, or pathogens are anticipated at this time to be released by project construction. Additional discussion on these items would be provided during further planning and design on project components.

**C.4.39.7.3.2.4 Aesthetics of the Water Column**

During construction, visual aesthetics would be negatively impacted. After completion, aesthetics would improve due to a reduction in exotic species.

**C.4.39.7.3.3 Effects on Biota****C.4.39.7.3.3.1 Primary Productivity and Photosynthesis**

Placement of excavated materials would temporarily adversely affect wetlands in the immediate vicinity of construction by destroying vegetation and smothering biota. However, project operation would improve the primary productivity and photosynthesis due to an increase in quality of wetland habitat.

**C.4.39.7.3.3.2 Suspension/Filter Feeders**

During construction operations there would be a temporary increase in turbidity and possibly a decrease in suspension/filter feeders due to construction activities. This temporary increase in turbidity would be short-term and should not have any long-term negative impact on these highly fecund organisms. The implantation of the project should benefit these organisms by creating a higher quality wetland habitat.

**C.4.39.7.3.3.3 Sight Feeders**

During construction operations there would be a temporary increase in turbidity and possibly a decrease in sight feeders due to construction activities. No significant impacts on these organisms are expected as the majority of sight feeders are highly mobile and can move outside the affected area. When the project is operational, sight feeders would benefit from the higher quality wetland habitat.

#### **C.4.39.7.4 Contamination Determinations**

From the 1920s through the 1960s, most of the land parcels incorporated in the WAF project footprint were cultivated for agricultural use. A few parcels continue to be farmed. However, crops and/or cultivation practices have changed dramatically. Residual pesticide contamination associated with past and present crop production can be detected in the soils on many of the parcels; however, at concentrations that are not likely to present unacceptable risks to human health or environmental receptors. For parcels that are frequently inundated under present hydrologic conditions, the proposed project is not likely to significantly increase the risk of environmental harm associated with the fate and transport of the residual contamination. For parcels that are not frequently inundated under present hydrologic conditions, the proposed project may increase the risk of environmental harm associated with the fate and transport of residual contamination. However, the USFWS reviewed the testing and analysis performed on these lands and determined that remedial actions do not appear to be warranted. Additional hazardous, toxic and radioactive waste (HTRW) investigations may be conducted to determine what project topsoils might require isolation (by encapsulating in levee berms) to minimize the risk of contaminant bioaccumulation or mobilization.

#### **C.4.39.7.5 Aquatic Ecosystem and Organism Determinations**

No long-term adverse impacts on aquatic organisms are anticipated. Wetland and estuarine ecosystems are expected to greatly improve because of implementation of the Recommended Plan, Alternative 1BWR. The proposed project is not expected to cause or contribute to violations of State Water Quality Standards, jeopardize the existence of any federally endangered or threatened species, or impact a marine sanctuary. No significant degradation is expected and all appropriate and practicable steps would be taken to minimize impacts. Improvements to upland and wetland habitats are predicted with the construction of Alternative 1BWR. The wetland attenuation feature and the wetland restoration sites will restore wetland habitat and improve estuarine salinity.

##### **C.4.39.7.5.1 Effects on Plankton**

No adverse impacts to plankton are anticipated.

##### **C.4.39.7.5.2 Effects on Benthos**

No adverse impacts to benthic organisms are anticipated other than displacement of those organisms in the construction footprint of the proposed project. Reduction of freshwater flows to the Northern Estuaries would improve habitat for the benthos.

##### **C.4.39.7.5.3 Effects on Nekton**

There is a potential adverse effect on larval fish with impingement or entrapment at the ASR well intakes. However, design features to reduce the risk will be investigated during the PED phase. There should be no adverse impacts to freshwater swimming aquatic organisms, including fishes during construction of the WAF and the wetland restoration sites. Additionally, no adverse impacts are expected downstream in the waters of the Northern Estuaries and the adjacent coastline. Estuarine fish species most likely to occur in these areas include the small forage species, such as killifish (*Cyprinodon* spp. and *Fundulus* spp.), mosquito fish (*Gambusia affinis*), juvenile sciaenids (*Leiostomus* spp.), silversides (*Atherinidae*) and mullets (*Mugil* spp.). Larger secondary consumers include gray snapper (*Lutjanus griesus*), tarpon

(*Megalops atlantica*), snook (*Centropomus* spp.), red drum (*Sciaenops ocellatus*) and spotted seatrout (*Cynoscion nebulosus*).

#### **C.4.39.7.5.4 Effects on Aquatic Food Web**

Periphyton forms the base of the food web within the project area. Implementation of the project is expected to increase periphyton mat biomass and productivity throughout the site as well as freshwater diatoms. No adverse impacts to the aquatic food web are anticipated, other than minor temporary impacts within the construction footprint of the WAF.

#### **C.4.39.7.5.5 Effects on Special Aquatic Sites**

##### **C.4.39.7.5.5.1 Hardground and Coral Reef Communities**

There are no hardground or coral reef communities located within the proposed project site or the nearshore waters affected by the project. Corals found within the waters of Biscayne Bay are outside of the area of potential effect.

##### **C.4.39.7.5.5.2 Sanctuaries and Refuges**

There are no sanctuaries or refuges within the project footprint and none should be impacted by the project.

##### **C.4.39.7.5.5.3 Wetlands**

The dominant vegetation community in the region is improved pastures with a mix of wet and dry prairies, freshwater marshes, hardwood swamps, cypress swamps, mesic temperate hammock, and pine flatwoods. As a result of the project, approximately 976 acres of wetlands would be removed by construction and excavation activities. However the Recommended Plan will create or restore approximately 4,779 acres of wetlands so there will be a net gain of 3,803 acres of wetlands. This loss and offset with new or restored wetlands is not anticipated to have any adverse effects. The proposed project is anticipated to provide positive ecological benefits, including improving hydroperiods and hydroperiods in the watershed, by improving the quantity, timing, and distribution of water delivered to Lake Okeechobee and the downstream estuaries.

##### **C.4.39.7.5.5.4 Mud Flats**

There are no mud flats within the construction footprint or areas impacted by the proposed project.

##### **C.4.39.7.5.5.5 Vegetated Shallows**

Submerged aquatic vegetation (SAV) is present throughout the nearshore waters of Lake Okeechobee and in the Northern Estuaries. Submerged aquatic vegetation within Lake Okeechobee is composed almost entirely of hydrilla (*Hydrilla verticillata*), an invasive exotic species, pondweed (*Potamogeton illinoensis*), bladderwort (*Utricularia foliosa*), Chara (*Chara* spp.), coontail (*Ceratophyllum demersum*) and tape grass (*Vallisneria americana*). Increased time in the ecologically preferred stage envelope for Lake Okeechobee would provide improvement to SAV. In the northern estuaries the trend shows the following species in order from the shoreline to the deeper waters: widgeon grass (*Ruppia maritima*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), shoal grass (*Halodule wrightii*) and Johnsons seagrass

(*Halophila johnsonii*). Reduction of freshwater flows to the Northern Estuaries would provide improvements to SAV.

#### **C.4.39.7.5.5.6 Riffle and Pool Complexes**

There are no riffle or pool complexes within the project footprint and none should be impacted by the proposed project.

#### **C.4.39.7.5.6 Threatened and Endangered Species**

There are 33 federally listed threatened and endangered species potentially present in the project area. The USACE and U.S. Fish and Wildlife Service (USFWS) are presently consulting on a determination of 'no effect' or 'not likely to adversely affect' decision for all federally listed species within the project area, with the exception of the crested caracara, for which a may affect, likely to adversely affect determination has been made. A Biological Assessment is included within **Annex A** to document potential effects to threatened and endangered species. A Biological Opinion from the USFWS on the effect of implementation of the proposed project on any endangered and/or threatened species is included in **Annex A**.

#### **C.4.39.7.6 Proposed Placement Site Determinations**

Excavated material would be used for the WAF embankments. There would be no long-term adverse impacts to the project area resources as a result of the placement of the excavated material.

##### **C.4.39.7.6.1 Mixing Zone Determination**

The dredged material would not cause unacceptable changes in the mixing zone water quality requirements as specified by the State of Florida's Water Quality Certification permit procedures. No adverse impacts related to depth, current velocity, direction and variability, degree of turbulence, stratification, or ambient concentrations of constituents are expected from implementation of the project.

##### **C.4.39.7.6.2 Determination of Compliance with Applicable Water Quality Standards**

The LOWRP complies with water quality standards applicable to the project and adjacent waters. Proposed features are located in and adjacent to waters designated as Class III by the State of Florida. In accordance with Chapter 62-302, Florida Administrative Code (F.A.C.), Surface Water Quality Standards, the use classification of Class III waters is "Fish Consumption; Recreation, Propagation, and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife." In addition to the minimum and general criteria for surface waters found in Subsection 62-302.500(1), F.A.C., there are numerous water quality criteria for specific parameters for Class III waters listed in Rule 62-302.530, F.A.C. Although the proposed plan is not expected to affect most of the parameters listed in this rule, certain parameters (e.g., turbidity and dissolved oxygen) listed in the criteria may be affected by construction and operations activities. The construction and operation of the proposed project components would comply with federal and state water quality standards.

**C.4.39.7.7 Potential Effects on Human Use Characteristics****C.4.39.7.7.1 Municipal and Private Water Supply**

No municipal or private water supplies would be adversely impacted by the implementation of the project. Refer to **Section 4** and **Appendix C, Part 2**, for additional information pertaining to LOWRP water supply analyses.

**C.4.39.7.7.2 Recreational and Commercial Fisheries**

There will be no impact to recreational fishing by boat. There is a potential negative impact to recreational fisheries due to ASR well intakes. Bank fishing opportunities could be positively increased by addition of access points around proposed structures. The proposed project would benefit recreational and commercial fisheries through salinity improvements within the northern estuaries.

**C.4.39.7.7.3 Water-related Recreation**

Water related recreation will be improved by project features. Further detail is included in **Appendix F**.

**C.4.39.7.7.4 Aesthetics**

The proposed project would enhance the overall aesthetics of the project area. Exotic plant control may enhance the aesthetics of the area.

**C.4.39.7.7.5 Parks, National and Historical Monuments, National Seashores, Wilderness Areas, Research Sites, and Similar Preserves**

The project would enhance environmental conditions at these types of sites within the project area.

**C.4.39.7.8 Essential Fish Habitat****C.4.39.7.8.1 Essential Fish Habitat in the Area**

The project area includes the Northern Estuaries. Lake Okeechobee flows into the Northern Estuaries. The St. Lucie Canal feeds into the St. Lucie Estuary, while the Caloosahatchee Canal/River feeds into the Caloosahatchee Estuary to the west.

**C.4.39.7.8.1.1 Caloosahatchee River**

The Caloosahatchee River estuary contains essential fish habitat for juvenile brown shrimp, juvenile gray snapper (*Lutjanus griseus*), smalltooth sawfish (*Pristia pectinata*), juvenile pink shrimp, adult and juvenile red drum, adult and juvenile Spanish mackerel, and juvenile stone crab. Downstream habitats include oyster reefs and seagrass beds (submerged aquatic vegetation).

**C.4.39.7.8.1.2 St. Lucie Estuary**

The proposed project is within the jurisdiction of the South Atlantic Fishery Management Council (SAFMC) and is located in areas designated as EFH for wormrock, live bottom habitat, for the American oyster (*Crassostrea virginica*); pink shrimp; white shrimp, and brown shrimp; Florida red drum; grouper

(*Epinephelus* spp.); gray snapper (*Lutjanus griseus*); white grunt (*Haemulon plumieri*); red porgy (*Pagrus pagrus*); spiny lobster; and the snapper-grouper complex. In addition, the nearshore hardbottom habitat outside of the St. Lucie Estuary is designated as Essential Fish Habitat-Habitat Areas of Special Concern (EFH-HAPC) for the snapper-grouper complex.

#### **C.4.39.7.8.2 Assessment of Effects on Hardground and Coral Reef Communities**

This project is not expected to affect coral reefs or hard bottom communities. There are no coral reefs or hard bottom communities located within the proposed project site or the nearshore waters affected by the project.

#### **C.4.39.7.8.3 Assessment of Effects on Sanctuaries and Refuges**

There are no sanctuaries or refuges within the project footprint and none should be impacted by the project.

#### **C.4.39.7.8.4 Assessment of Effects on Wetlands**

The dominant vegetation community in the region is mostly improved pastures with a mix of wet and dry prairies, freshwater marshes, hardwood swamps, cypress swamps, mesic temperate hammock, and pine flatwoods. As a result of the project, approximately 976 acres of wetlands would be removed by construction and excavation activities, however the Recommended Plan will create or restore approximately 4,779 acres of wetlands so there will be a net gain of 3,803 acres of wetlands. This loss and offset with new or restored wetlands is not anticipated to have any adverse effects. The proposed project is anticipated to provide positive ecological benefits, including improving hydroperiods and hydroperiods in the watershed, by improving the quantity, timing, and distribution of water delivered to Lake Okeechobee and the downstream estuaries.

#### **C.4.39.7.8.5 Assessment of Effects on Mud Flats**

There are no mud flats within the construction footprint or areas impacted by the project.

#### **C.4.39.7.8.6 Assessment of Effects on Vegetated Shallows**

Submerged aquatic vegetation (SAV) is present throughout the nearshore waters of Lake Okeechobee and in the northern estuaries. Submerged aquatic vegetation within Lake Okeechobee is composed almost entirely of hydrilla (*Hydrilla verticillata*), an invasive exotic species, pondweed (*Potamogeton illinoensis*), bladderwort (*Utricularia foliosa*), Chara (*Chara* spp.), coontail (*Ceratophyllum demersum*) and tape grass (*Vallisneria americana*). Increased time in the ecologically preferred stage envelope for Lake Okeechobee would provide improvement to SAV. In the northern estuaries the trend shows the following species in order from the shoreline to the deeper waters: widgeon grass (*Ruppia maritima*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), shoal grass (*Halodule wrightii*) and Johnsons seagrass (*Halophila johnsonii*). Reduction of freshwater flows to the Northern Estuaries would provide improvements to SAV.

#### **C.4.39.7.8.7 Assessment of Effects on Riffle and Pool Complexes**

There are no riffle or pool complexes within the project footprint and none should be impacted by the project.

**C.4.39.7.9 Assessment of Effects on Plankton**

No adverse impacts to plankton are anticipated.

**C.4.39.7.10 Assessment of Effects on Benthos**

No adverse impacts to benthic organisms are anticipated other than displacement of those organisms in the construction footprint of the project.

**C.4.39.8 Assessment of Effects on Nekton**

There is a potential adverse effect on larval fish with impingement or entrapment with the ASR well intakes; however, design features to reduce the risk will be evaluated during the PED phase. There should be no adverse impacts to freshwater swimming aquatic organisms, including fishes, during construction of the WAF and the wetland restoration sites. Additionally, no adverse impacts are expected downstream in the Northern Estuaries or the adjacent coastline. Estuarine fish species most likely to occur in these areas include the small forage species, such as killifish (*Cyprinodon* spp. and *Fundulus* spp.), mosquito fish (*Gambusia affinis*), juvenile sciaenids (*Leiostomus* spp.), silversides (*Atherinidae*) and mullets (*Mugil* spp.). Larger secondary consumers include gray snapper (*Lutjanus griesus*), tarpon (*Megalops atlantica*), snook (*Centropomus* spp.), red drum (*Sciaenops ocellatus*) and spotted seatrout (*Cynoscion nebulosus*).

**C.4.39.8.1 Determination of Effects on Essential Fish Habitat**

The overall benefit to the regional system is expected to be far greater than the localized adverse effects. The restoration the Lake Okeechobee watershed hydrology and the increase in spatial extent of protected wetland acreage in the region would produce extensive cumulative beneficial effects. These beneficial effects are expected to substantially outweigh the cumulative adverse effects produced by the aquatic ecosystem alterations that may be necessary to construct some of the project components.

**C.4.39.9 Determination of Cumulative Effects on the Aquatic Ecosystem**

The overall benefit to the regional system is expected to be far greater than the localized adverse effects. The hydrologic restoration of the Lake Okeechobee watershed and the increase in spatial extent of protected wetland acreage in the region would produce extensive cumulative beneficial effects. These beneficial effects are expected to substantially outweigh the cumulative adverse effects produced by the aquatic ecosystem alterations that may be necessary to construct some of the project features.

**C.4.39.10 Determination of Secondary Effects on the Aquatic Ecosystem**

No adverse secondary impacts on the aquatic ecosystem will occur due to construction. During construction the sites would be contained with sedimentation barriers. Erosion would be controlled by appropriate erosion control techniques. Sedimentation would be controlled during construction. An ecological and water-quality monitoring plan will be implemented during and after construction. Specific environmental commitments, engineering and design commitments, and operational commitments will be incorporated to avoid, minimize, and/or mitigate for adverse effects.

**C.4.39.11 Findings of Compliance or Non-compliance with the Restrictions on Discharge**

No significant adaptations of the guidelines were made relative to this evaluation.

At this time, no practicable alternatives exist which have less adverse impact on the aquatic ecosystem without presenting other significant adverse environmental consequences. The alternatives all have overwhelming beneficial impacts.

The discharge of fill materials is not anticipated to cause or contribute to violations of any applicable state water quality standards for Class III waters or Outstanding Florida Waters where applicable. The discharge operation is not anticipated to violate the Toxic Effluent Standards of Section 307 of the Clean Water Act.

The placement of fill materials in the project area is not anticipated to jeopardize the continued existence of any species listed as threatened and endangered or result in the likelihood of destruction or adverse modification of any critical habitat as specified by the Endangered Species Act of 1973, as amended.

The placement of fill material is not anticipated to result in significant adverse effects on human health and welfare, including municipal and private water supplies, recreational and commercial fishing, plankton, fish, shellfish, wildlife, and special aquatic sites. The life stages of aquatic species and other wildlife is not anticipated to be adversely affected. Significant adverse effects on aquatic ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values are not anticipated.

Based on the guidelines, the proposed discharge site for the discharge of fill and/or dredged material is specified as complying with the requirements of these guidelines.

**C.4.40 Coastal Zone Management Act Consistency Statement****FLORIDA COASTAL MANAGEMENT PROGRAM****FEDERAL CONSISTENCY EVALUATION PROCEDURES****Lake Okeechobee Watershed Project****Okeechobee, Highlands, Hendry, Glades, Lee, Martin and St. Lucie Counties**

**Enforceable Policy.** Florida State Statutes considered “enforceable policy” under the Coastal Zone Management Act ([www.dep.state.fl.us/cmp/federal/24\\_statutes.htm](http://www.dep.state.fl.us/cmp/federal/24_statutes.htm) ).

**Applicability of the Coastal Zone Management Act.**

**Table C.4-1** summarizes the process and procedures under the Coastal Zone Management Act for Federal Actions and for Non-federal Applicants\*.

**Table C.4-1. Process and procedures under the Coastal Zone Management Act.**

<b>Item</b>	<b>Non-federal Applicant (15 CFR 930, subpart D)</b>	<b>Federal Action (15 CFR 930, subpart C)</b>
Enforceable Policies	Reviewed and approved by NOAA (in FL <a href="http://www.dep.state.fl.us/cmp/federal/24_statutes.htm">www.dep.state.fl.us/cmp/federal/24_statutes.htm</a> )	Same
Effects Test	Direct, Indirect (cumulative, secondary), adverse or beneficial	Same
Review Time	6 months from state receipt of Consistency Certification (30-days for completeness notice) Can be altered by written agreement between State and applicant	60 Days, extendable (or contractible) by mutual agreement
Consistency	Must be Fully Consistent	To Maximum Extent Practicable**
Procedure Initiation	Applicant provides Consistency Certification to State	Federal Agency provides “Consistency Statement” to State
Appealable	Yes, applicant can appeal to Secretary (NOAA)	No (NOAA can “mediate”)
Activities	Listed activities with their geographic location (State can request additional listing within 30 days)	Listed or Unlisted Activities in State Program
Activities in Another State	Must have approval for interstate reviews from NOAA	Interstate review approval NOT required
Activities in Federal Waters	Yes, if activity affects state waters	Same

\* There are separate requirements for activities on the Outer Continental Shelf (subpart E) and for “assistance to an applicant agency” (subpart F).

\*\* Must be fully consistent except for items prohibited by applicable law (generally does not count lack of funding as prohibited by law, 15 CFR § 930.32).

**Coastal Zone Consistency Statement by Statute/Enforceable Policy****PARTS I AND II, CHAPTER 161, F.S., DENNIS L. JONES BEACH AND SHORE PRESERVATION ACT**

Coastal areas are among the state's most valuable natural, aesthetic, and economic resources; and they provide habitat for a variety of plant and animal life. The state is required to protect coastal areas from imprudent activities that could jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access. Coastal areas used, or likely to be used, by sea turtles are designated for nesting, and the removal of vegetative cover that binds sand is prohibited. This statute provides policy for the regulation of construction, reconstruction, and other physical activities related to the beaches and shores of the state. Additionally, this statute requires the restoration and maintenance of critically eroding beaches.

***Response: The proposed plans and information would be submitted to the state in compliance with this chapter. No work is proposed seaward of the mean high water line and would not affect shorelines or shoreline processes.***

**PART II, CHAPTER 163, F.S., INTERGOVERNMENTAL PROGRAMS: GROWTH POLICY, COUNTY AND MUNICIPAL PLANNING; LAND DEVELOPMENT REGULATION**

These statutes implement comprehensive planning programs to guide and control future development in the state. The comprehensive planning process encourages units of local government to preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of public facilities and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

**Chapter 163, Community Planning Act**

Enforceable policies include:

Section 163.3164, F.S. Community Planning Act; definitions;

Section 163.3177, F.S. Required and optional elements of comprehensive plan; studies and surveys

(3)(a). requiring the comprehensive plan to have a capital improvements element that considers the need and location of public facilities to encourage the efficient use of such facilities;

(6)(a). requiring comprehensive plans to have a future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land; maximize the use of existing facilities and services through redevelopment, urban infill development, and other strategies for urban revitalization;

(6)(b). must consider land use compatibility issues around airports, and shall address land use compatibility consistent with chapter 333 regarding airport zoning;

(6)(d). designate environmentally sensitive lands for protection; and

(7)(a). include innovative approaches to development which may better serve to protect and maintain the economic viability of agricultural and other predominately rural land uses;

Subsection 163.3178 Coastal management. (1) local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and that such plans protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

(2) coastal management elements of comprehensive plans shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element in the event of an impending natural disaster. The Division of Emergency Management shall manage the update of the regional hurricane evacuation studies, ensure such studies are done in a consistent manner, and ensure that the methodology used for modeling storm surge is that used by the National Hurricane Center.

(e) A component which outlines principles for protecting existing beach and dune systems from human-induced erosion and for restoring altered beach and dune systems.

(f) A redevelopment component which outlines the principles which shall be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.

(g) A shoreline use component that identifies public access to beach and shoreline areas and addresses the need for water-dependent and water-related facilities, including marinas, along shoreline areas. Such component must include the strategies that will be used to preserve recreational and commercial working waterfronts as defined in s. 342.07.

(h) Designation of coastal high-hazard areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area as defined in subsection (9). The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. Application of mitigation and the application of development and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

(i) A component which outlines principles for providing that financial assurances are made that required public facilities will be in place to meet the demand imposed by the completed development or redevelopment. Such public facilities will be scheduled for phased completion to coincide with demands generated by the development or redevelopment.

(j) An identification of regulatory and management techniques that the local government plans to adopt or has adopted in order to mitigate the threat to human life and to control proposed

development and redevelopment in order to protect the coastal environment and give consideration to cumulative impacts.

Subsection 163.3180 Concurrency. (2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Health to serve new development.

(5),

(a) If concurrency is applied to transportation facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service to guide its application.

(e) If a local government applies transportation concurrency in its jurisdiction, it is encouraged to develop policy guidelines and techniques to address potential negative impacts on future development:

1. In urban infill and redevelopment, and urban service areas.
2. With special part-time demands on the transportation system.
3. With *de minimis* impacts.
4. On community desired types of development, such as redevelopment, or job creation projects.

Paragraph 163.3194(1)(a), F.S. After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

Subsection 163.3202(2), F.S. Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall as a minimum:

(a) Regulate the subdivision of land.

(b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.

(c) Provide for protection of potable water wellfields.

(d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.

(e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.

(f) Regulate signage.

(g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. Not later than 1 year after its due date established by the state land planning agency's rule for submission of local comprehensive plans pursuant to s. 163.3167(2), a local government shall not issue a development order or permit which results in a reduction in the level of services for the affected public facilities below the level of services provided in the comprehensive plan of the local government.

(h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

### **Local Government Development Agreement Act**

Section 163.3220, F.S. The Legislature finds and declares that:

(2)(a) The lack of certainty in the approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development, and discourage commitment to comprehensive planning.

(b) Assurance to a developer that upon receipt of his or her development permit or brownfield designation he or she may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, and reduces the economic costs of development.

(3) In conformity with, in furtherance of, and to implement the Local Government Comprehensive Planning and Land Development Regulation Act and the Florida State Comprehensive Planning Act of 1972, it is the intent of the Legislature to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

***Response: The proposed project has been coordinated with various federal, state, and local agencies during the planning process. The project meets the primary goal of the State Comprehensive Plan through preservation and protection of the environment.***

### **CHAPTER 187, F.S., STATE COMPREHENSIVE PLAN**

The state comprehensive plan provides basic policy direction to all levels of government regarding the orderly social, economic, and physical growth of the state. The goals, objectives, and policies of the state comprehensive plan are statewide in scope and are consistent and compatible with each other. The

statute provides direction for the delivery of governmental services, a means for defining and achieving the specific goals of the state, and a method for evaluating the accomplishment of those goals.

***Response: The proposed project has been coordinated with various federal, state, and local agencies during the planning process. The project meets the primary goal of the State Comprehensive Plan through preservation and protection of the environment.***

#### **CHAPTER 252, F.S., STATE EMERGENCY MANAGEMENT ACT**

The state of Florida is vulnerable to a wide range of emergencies, including natural, technological, and manmade disasters and this vulnerability is exacerbated by the tremendous growth in the state's population, especially the growth in the number of persons residing in coastal areas, in the elderly population, in the number of seasonal vacationers, and in the number of persons with special needs. This chapter directs the state to reduce the vulnerability of its people and property to natural and manmade disasters; prepare for, respond to and reduce the impacts of disasters; and decrease the time and resources needed to recover from disasters. Disaster mitigation is necessary to ensure the common defense of Floridians' lives and to protect the public peace, health, and safety. The policies provide the means to assist in the prevention or mitigation of emergencies that may be caused or aggravated by the inadequate planning or regulation of facilities and land uses. State agencies are directed to keep land uses and facility construction under continuing study and identify areas that are particularly susceptible to natural or manmade catastrophic occurrences.

***Response: This project is a restoration project and provides increased ability to store water in the natural system during hurricanes or floods. All structures will be built to federal and state standards. This project would be consistent with the efforts of the Division of Emergency Management.***

#### **CHAPTER 253, F.S., STATE LANDS**

The Board of Trustees of the Internal Improvement Trust Fund (Trustees) is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state. Lands acquired for preservation, conservation and recreation serve the public interest by contributing to the public health, welfare, and economy. In carrying out the requirements of this statute, the Trustees are directed to take necessary action to fully: conserve and protect state lands; maintain natural conditions; protect and enhance natural areas and ecosystems; prevent damage and depredation; and preserve archaeological and historical resources. All submerged lands are considered single-use lands to be maintained in natural condition for the propagation of fish and wildlife and public recreation. Where multiple-uses are permitted, ecosystem integrity, recreational benefits, and wildlife values are conserved and protected.

No lease of the type covered by this law shall be granted, sold, or executed south of 26° north latitude off Florida's west coast and south of 27° north latitude off Florida's east coast.... After July 31, 1990, no oil or natural gas lease shall be granted, sold, or executed covering lands located north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama ... or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia ....

***Response: The proposed project would conserve, protect, restore, and enhance natural conditions within state lands. This project would make a positive contribution to preserving water, fish and wildlife,***

***cultural, and wetland resources within the State of Florida and therefore, complies with the intent of this chapter.***

#### **CHAPTER 258, F.S., STATE PARKS AND PRESERVES**

The Chapter addresses the state's administration of state parks, aquatic preserves, and recreation areas, which are acquired to emblemize the state's natural values and to ensure that these values are conserved for all time. Parks and preserves are managed for the non-depleting use, enjoyment, and benefit of Floridians and visitors and to contribute to the state's tourist appeal. Aquatic Preserves have exceptional biological, aesthetic, and scientific value and are set aside for being maintained essentially in its natural or existing condition. Disruptive physical activities and polluting releases are highly restricted in aquatic preserves. State managed wild and scenic rivers possess exceptionally remarkable and unique ecological, fish and wildlife, and recreational values and are designated for permanent preservation and enhancement for both the present and future.

***Response: The proposed project includes constructing a wetland attenuation feature (WAF) and ASR wells on the state and privately owned lands in the Lake Okeechobee watershed. The WAF would capture approximately 46,000 acre-feet of water that is currently flows from Lake Okeechobee to tide in the St. Lucie and Caloosahatchee Estuaries.***

***The St. Lucie Estuary is a designated Estuary of National Significance and Outstanding Florida Water. The North Fork of the St. Lucie River is a state aquatic preserve and part of Florida's "Save Our Rivers" program. The Indian River Lagoon is part of the National Estuary Program and an aquatic preserve. The proposed WAF and ASR wells would improve delivery of water to the St. Lucie Estuary and Indian River Lagoon by reducing the frequency and volume of high level flows from Lake Okeechobee, thus reducing the potential for impacts to estuarine and nearshore biota.***

***The Caloosahatchee River and Estuary are at the head of a vast estuarine and marine ecosystem that includes aquatic preserves managed by the State of Florida (e.g., Matlacha Pass, Estero Bay, and Pine Island Sound Aquatic Preserves), the Charlotte Harbor National Estuary Program, and the J. N. Ding Darling National Wildlife Refuge (NWR) Complex which includes the Caloosahatchee, Matlacha Pass, Pine Island, and Island Bay NWRs; along with numerous other state and local parks and recreation areas. The aquatic preserves are also outstanding Florida water bodies. The proposed WAF and ASR wells would reduce the frequency and volume of high flows from Lake Okeechobee, thus reducing the impacts of low salinities on the estuarine and nearshore biota.***

***The proposed project area includes state and privately owned lands in the Lake Okeechobee watershed. The proposed project features act to rehydrate portions of the watershed thereby increasing the spatial extent of wetlands.***

***The proposed project would help enhance environmental conditions at state parks or aquatic preserves in the region. The proposed project would comply with the intent of this chapter.***

#### **CHAPTERS 259, F.S., LAND ACQUISITION FOR CONSERVATION OR RECREATION**

This chapter addresses public ownership of natural areas for purposes of maintaining the state's unique natural resources; protecting air, land, and water quality; promoting water resource development to meet the needs of natural systems and citizens of this state; promoting restoration activities on public lands; and providing lands for natural resource based recreation. Lands are managed to protect or restore their

natural resource values, and provide the greatest benefit, including public access, to the citizens of this state.

***Response: The potentially affected property is currently in public and private ownership.***

#### **CHAPTERS 260, F.S., FLORIDA GREENWAYS AND TRAILS ACT**

A statewide system of greenways and trails is established to conserve, develop, and use the natural resources of Florida for healthful and recreational purposes. These greenways and trails provide open space benefiting environmentally sensitive lands and wildlife and provide people with access to healthful outdoor activities. The greenways and trails serve to implement the concepts of ecosystem management while providing, where appropriate, recreational opportunities such as horseback riding, hiking, bicycling, canoeing, jogging, and historical and archaeological interpretation.

***Response: The potentially affected property is currently in public and private ownership.***

#### **CHAPTER 267, F.S., FLORIDA HISTORICAL RESOURCES ACT**

The management and preservation of the state's archaeological and historical resources are addressed by this chapter. This chapter recognizes the state's rich and unique heritage of historical resources and directs the state to locate, acquire, protect, preserve, operate, and interpret historical and archeological resources for the benefit of current and future generations of Floridians. Objects or artifacts with intrinsic historical or archeological value located on, or abandoned on, state-owned lands or state-owned submerged lands belong to the citizens of the state. The state historic preservation program operates in conjunction with the National Historic Preservation Act of 1966 to require state and federal agencies to consider the effect of their direct or indirect actions on [significant] historical and archeological resources. These resources cannot be destroyed or altered unless no prudent alternative exists. Unavoidable impacts must be mitigated.

***Response: The U.S. Army Corps of Engineers consulted under Section 106 of the National Historic Preservation Act with the State Historic Preservation Officer, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Seminole Nation of Oklahoma, and the Thlopthlocco Tribal Town. The USACE is in compliance with this Act through execution of a Programmatic Agreement among the Florida State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the USACE.***

#### **CHAPTER 288, F.S., COMMERCIAL DEVELOPMENT AND CAPITAL IMPROVEMENTS**

The statutory framework promotes and develops the general business, trade, and tourism components of the state economy. The chapter includes requirements to protect and promote the natural, coastal, historical, and cultural tourism assets of the state; foster the development of nature-based tourism and recreation; and upgrade the image of Florida as a quality destination. Natural resource-based tourism and recreational activities are critical sectors of Florida's economy. The needs of the environment must be balanced with the need for growth and economic development.

***Response: The proposed project would be compatible with tourism for this area and therefore, is consistent with the goals of this Chapter.***

**CHAPTER 334, F.S., FLORIDA TRANSPORTATION CODE**

The chapter addresses the state's policy concerning transportation administration. It establishes the responsibilities of the state, the counties, and the municipalities in the planning and development of the transportation systems serving the people of the state and to assure the development of an integrated, balanced statewide transportation system. This is necessary for the protection of public safety and general welfare and for the preservation of all transportation facilities in the state.

***Response: No public transportation systems would be impacted by this project.***

**CHAPTER 339, F.S., TRANSPORTATION FINANCE AND PLANNING**

The chapter addresses the finance and planning needs of the state's transportation system.

***Response: No public transportation systems would be impacted by this project.***

**CHAPTER 373, F.S., FLORIDA WATER RESOURCES ACT OF 1972**

The waters of the state of Florida are managed and protected to conserve and preserve water resources, water quality, and environmental quality. This chapter addresses sustainable water management; the conservation of surface and ground waters for full beneficial use; the preservation of natural resources, fish, and wildlife; protecting public land; and promoting the health and general welfare of Floridians. The state manages and conserves water and related natural resources by determining whether activities will unreasonably consume water, flood properties, degrade water quality, or adversely affect environmental values.

Specifically, under Part IV of Chapter 373, the Department of Environmental Protection, water management districts, and delegated local governments review and take agency action on wetland resource, environmental resource, and stormwater permit applications, which address the construction, alteration, operation, maintenance, abandonment, and removal of any stormwater management system, dam, impoundment, reservoir, or appurtenant work or works, including dredging, filling and construction activities in, on, and over wetlands and other surface waters.

***Response: The proposed project includes constructing a wetland attenuation feature (WAF) on the State and privately owned lands. The WAF would capture approximately 46,000 acre-feet of water that currently flows from Lake Okeechobee to tide in the St. Lucie and Caloosahatchee Estuaries. The project will not adversely impact water quality.***

***The proposed project incorporates restoration components primarily intended to benefit freshwater wetlands and estuarine resources by distributing freshwater flows through the Lake Okeechobee watershed. The goals and objectives of this project are to improve habitat conditions for native wildlife species. Impacts of this project have been detailed within an Environmental Impact Statement and in the Section 404(b)(1) Clean Water Act Evaluation (subsection C.4.39). This project is in compliance with the intent of this Chapter.***

***The non-federal sponsor for this project is the SFWMD, which is the state agency responsible for implementing this statute. The USACE and the SFWMD have coordinated planning efforts to ensure compatibility with established policies. The project is consistent with the goals of this chapter.***

**CHAPTER 375, F.S., OUTDOOR RECREATION AND CONSERVATION ACT OF 1963**

The chapter requires the FDEP to develop a comprehensive multipurpose outdoor recreation plan in coordination with other governmental entities, including the SFWMD. The purpose of the plan is to document recreational supply and demand, describe current recreational opportunities, estimate the need for additional recreational opportunities, and propose the means to meet the identified needs.

***Response: The potentially affected property is currently in public and private ownership. This project complies with the Chapter.***

**CHAPTER 376, F.S., POLLUTANT DISCHARGE PREVENTION AND CONTROL ACT**

Regulating the transfer, storage, and transportation of pollutants, and the cleanup of pollutant discharges is essential for maintaining the coastal waters, estuaries, tidal flats, beaches, and public lands adjoining the seacoast in as close to a pristine condition as possible. The preservation of the seacoast as a source of public and private recreation and the preservation of water and certain lands are matters of the highest urgency and priority. This chapter provides a framework for the protection of the state's coastline from spills, discharges, and releases of pollutants as a result of the transfer, storage, and transportation of such products. The release of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state is prohibited. The chapter requires hazards and threats of danger and damages resulting from any pollutant discharge to be evaluated; requires the prompt containment and removal of pollution; provides penalties for violations; and ensures the prompt payment of reasonable damages from a discharge. Portions of Chapter 376, F.S., complement the national contingency plan portions of the federal Water Pollution Control Act.

***Response: The contract specifications would prohibit the contractor from dumping oil, fuel, or hazardous wastes in the work area and would require that the contractor adopt safe and sanitary measures for the disposal of solid wastes. A spill prevention plan would be required.***

**CHAPTER 377, F.S., ENERGY RESOURCES**

The chapter addresses the regulation, planning, and development of the energy resources of the state. The chapter provides policy to conserve and control the oil and gas resources in the state, including products made therefrom and to safeguard the health, property, and welfare of Floridians. The Department of Environmental Protection (DEP) is authorized to regulate all phases of exploration, drilling, and production of oil, gas, and other petroleum products in the state. The chapters describe the permitting requirements and criteria necessary to drill and develop for oil and gas. DEP rules ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of extraction and transportation. The state explicitly prohibits pollution resulting from drilling and production activities. No person drilling for or producing oil, gas, or other petroleum products may pollute land or water; damage aquatic or marine life, wildlife, birds, or public or private property; or allow any extraneous matter to enter or damage any mineral or freshwater-bearing formation. Penalties for violations of any provisions of this chapter are detailed.

Not approved as enforceable policy: Sections 377.06, .24(9), and .242(1)(a)5. All deal with regulation of oil and gas resources.

***Response: This chapter does not apply. This project does not involve the exploration; drilling or production of gas, oil, or petroleum product.***

**CHAPTER 379, F.S., FISH AND WILDLIFE CONSERVATION COMMISSION**

The framework for the management and protection of the state of Florida's wide diversity of fish and wildlife resources are established in this statute. It is the policy of the state to conserve and wisely manage these resources. Particular attention is given to those species defined as being endangered or threatened. This includes the acquisition or management of lands important to the conservation of fish and wildlife. This chapter contains specific provisions for the conservation and management of marine fisheries resources. These conservation and management measures permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance, as well as ensure the proper quality control of marine resources that enter commerce.

This chapter also supports and promotes hunting, fishing, and the taking of game opportunities in the State. Hunting, fishing, and the taking of game are considered an important part in the state's economy and in the conservation, preservation, and management of the state's natural areas and resources.

Sections 379.2511 (lease of state-owned water bottoms for growing oysters and clams) and 379.362 (wholesale and retail saltwater products dealers; regulation), F.S., are not approved as enforceable policy.

***Response: The goals and objectives of this project are to improve habitat conditions for native wildlife species. This project complies with the intent of this Chapter.***

***Response: The proposed project would help improve ecological conditions in the estuaries. Implementation of the project would provide direct positive impacts on saltwater resources within the Caloosahatchee Estuary and St. Lucie Estuary by reducing the frequency and volume of high level flows from Lake Okeechobee and improve the salinity balance. This will benefit seagrass, oysters, fish, and wildlife. Based on the overall impacts, the project is consistent with the goals of this chapter.***

***Response: The proposed project would have a long-term beneficial effect on freshwater aquatic life and wildlife. The proposed project would increase the foraging opportunities for wading birds and other wildlife within the proposed project area. The project would have a long-term beneficial effect on freshwater aquatic life and wildlife within the Caloosahatchee River and St. Lucie River through attenuation of peak high flows during the wet season thus improving the salinity envelope for these species. The proposed project would rehydrate portions of the watershed, add wetland habitat, and is expected to significantly improve conditions for apple snails, fish, amphibians, alligators, and wading bird species throughout much of the study area. The proposed project is consistent with the intent of this chapter.***

**CHAPTER 380, F.S., LAND AND WATER MANAGEMENT**

Land and water management policies are established to protect natural resources and the environment; and to guide and coordinate local decisions relating to growth and development. The statute provides that state land and water management policies, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development and that all the existing rights of private property be preserved in accord with constitutions of this state and of the United States. The chapter establishes the Areas of Critical State Concern designation, the Florida Communities Trust as well as the Florida Coastal Management Act. The Florida Coastal Management Act provides the basis for the Florida Coastal Management Program which seeks to protect the natural, commercial, recreational, ecological, industrial, and aesthetic resources of Florida's coast.

Not approved as enforceable policy: Section 380.23(3)(d). [consistency review of] federal activities within the territorial limits of neighboring states when the Governor and the department determine that significant individual or cumulative impact to the land or water resources of the state would result from the activities.

***Response: The proposed project incorporates restoration components primarily intended to benefit freshwater wetlands and estuarine resources by distributing freshwater flows through the Lake Okechobee watershed. The goals and objectives of this project are to improve habitat conditions for native wildlife species. Impacts of this project have been detailed within an Environmental Impact Statement. This project complies with the Chapter.***

#### **CHAPTER 381, F.S., PUBLIC HEALTH: GENERAL PROVISIONS**

The chapter establishes public policy concerning the state's public health system, which is designated to promote, protect, and improve the health of all people in the state.

##### **Chapter 381 Public Health: General Provisions**

Enforceable policy includes only Sections 381.001 Legislative intent; public health system; 381.0011 Duties and powers of the Department of Health.; 381.0012 Enforcement authority; 381.006 Environmental health; 381.0061 Administrative fines; 381.0065 Onsite sewage treatment and disposal systems; regulation; 381.0066 Onsite sewage treatment and disposal systems; fees; and, 381.0067 Corrective orders; private and certain public water systems and onsite sewage treatment and disposal systems.

***Response: This project would not affect the state's public health system and therefore, this chapter is not applicable.***

#### **CHAPTER 388, F.S., MOSQUITO CONTROL**

Mosquito control efforts of the state are to achieve and maintain such levels of arthropod control as will protect human health and safety and foster the quality of life of the people, promote the economic development of the state, and facilitate the enjoyment of its natural attractions by reducing the number of pestiferous and disease-carrying arthropods. It is the policy of the state to conduct arthropod control in a manner consistent with protection of the environmental and ecological integrity of all lands and waters throughout the state.

***Response: The proposed project would not further the propagation of mosquitoes or other pest arthropods. The project complies with the chapter.***

#### **CHAPTER 403, F.S., FLORIDA AIR AND WATER POLLUTION CONTROL ACT**

Florida Air and Water Pollution control policies conserve state waters; protect and improve water quality for consumption and for the propagation of fish and wildlife; and maintain air quality to protect human health and plant and animal life. This chapter provides wide-ranging authority to address various environmental control concerns, including air and water pollution; electrical power plant and transmission line siting; the Interstate Environmental Control Compact; resource recovery and management; solid and hazardous waste management; drinking water protection; pollution prevention; ecosystem management; and natural gas transmission pipeline siting.

Not approved as enforceable policy: subsections 403.7125(2) and (3), F.S.

(2) The owner or operator of a landfill ...shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill.

(3) An owner or operator of a landfill ... may provide financial assurance to the department in lieu of the requirements of subsection (2).

***Response: A Final Environmental Impact Statement addressing project impacts has been prepared and would be reviewed by the appropriate resource agencies including the Florida Department of Environmental Protection. Environmental protection measures would be implemented to ensure that no lasting adverse effects on water quality, air quality, or other environmental resources would occur. The project complies with the chapter.***

#### **CHAPTER 553, F.S., BUILDING CONSTRUCTION STANDARDS**

The chapter addresses building construction standards and provides for a uniform Florida Building Code.

Enforceable policy includes only Sections 553.73 (Florida Building Code) and 553.79 (Permits; applications; issuance; inspections).

***Response: A Final Environmental Impact Statement addressing project impacts has been prepared and would be reviewed by the appropriate resource agencies including the Florida Department of Environmental Protection. Environmental protection measures would be implemented to ensure that no lasting adverse effects on water quality, air quality, or other environmental resources would occur. Water Quality Certification would be sought from the State prior to construction. The project complies with the chapter.***

#### **CHAPTER 582, F.S., SOIL AND WATER CONSERVATION**

It is the state's policy to promote the appropriate and efficient use of soil and water resources, protect water quality, prevent floodwater and sediment damage, preserve wildlife, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state. Farm, forest, and grazing lands are among the basic assets of the state; and the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people. These measures help to preserve state and private lands, control floods, maintain water quality, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife and protect wildlife habitat, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

***Response: Project construction and implementation would include appropriate erosion control plans and measures to ensure compliance with the intent of the chapter.***

#### **CHAPTER 597, F.S., FLORIDA AQUACULTURE POLICY ACT**

The chapter establishes public policy concerning the cultivation of aquatic organisms in the state. The intent is to enhance the growth of aquaculture, while protecting Florida's environment. This includes a requirement for a state aquaculture plan which provides for the coordination and prioritization of state

aquaculture efforts, the conservation and enhancement of aquatic resources, and which provides mechanisms for increasing aquaculture production for the creation of new industries, job opportunities, income for aquaculturists, and other benefits to the state.

***Response: The proposed project does not include aquaculture activities, and therefore, this Chapter does not apply.***

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## **PART 5: CULTURAL RESOURCES CONSULTATION INFORMATION**

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## **C.5 CULTURAL RESOURCES**

This appendix provides details pertaining to consultation concerning cultural resources and other pertinent information. This PIR/EIS meets cultural resources requirements as specified under NEPA. While the USACE is currently in compliance with the procedural requirements of the NHPA, the USACE recognizes that additional consultation and other requirements are not yet complete, but the project will be in full compliance prior to construction.

### **C.5.1 Abbreviations**

ACHP – Advisory Council on Historic Preservation  
 BIA – Bureau of Indian Affairs  
 CEPP – Central Everglades Planning Project  
 CR – Cultural Resources  
 EAA – Everglades Agricultural Area  
 ENP – Everglades National Park  
 ERTTP – Everglades Restoration Transition Plan  
 FBAR – Florida Bureau of Archaeological Research  
 FMSF – Florida Master Site Files  
 HR – Human Remains  
 NEPA – National Environmental Policy Act  
 MTIF – Miccosukee Tribe of Indians of Florida  
 SFWMD – South Florida Water Management District  
 SHPO – State Historic Preservation Office  
 SNO – Seminole Nation of Oklahoma  
 STOF – Seminole Tribe of Florida (to mean THPO unless otherwise specified)  
 THPO – Tribal Historic Preservation Office  
 TTTO – Thlopthlocco Tribal Town of Oklahoma  
 USACE – U.S. Army Corps of Engineers  
 WCA – Water Conservation Area

### **C.5.2 Section 106 Consultation Record Matrix of Communication**

**Table C.5-1** is a matrix of communications concerning cultural resources.

**Table C.5-1. Synopsis of Section 106 consultation.**

Date	Item	Action	Notes
27-Jun-16	Notification and request for NEPA/Sec 106, invitation for PDT	Letter	
21-Jul-16	Acceptance of Seminole to PDT Team	Letter	Letter accepting Seminole tribal representative to PDT team.
12-Aug-16	Invitation as Cooperating Agency	Letter	Response letter from the STOF accepting invitation, 13-Sep-2016
26-Sep-16	Left message with STOF to discuss face-to-face meeting	Telephone	No reply
27-Sep-16	Left message with STOF to discuss face-to-face meeting	Telephone	No reply
27-Sep-16	Email message notifying STOF of upcoming letter and shapefiles	Email	STOF reply via email on 9/27/16
29-Sep-16	Letter of Invitation to meet and discuss shapefiles and initiate Burial Resources Agreement	Letter	
29-Sep-16	Shapefiles of array sent to STOF	Email	
30-Sep-16	Replies to STOF on clarifications on shapefiles and LOWRP	Email	Phone calls and email from STOF seeking clarification for a map he needed to brief the council
30-Sep-16	Following Plan Formulation Team meeting, Leonard Rawlings sends email expressing need for discussing on water entitlements with ASRs, consultation, and dam safety.	Email	USACE sends response regarding ASR and entitlement concerns
4-Oct-16	Phone message from MTIF; reply to 9/29 letter	Telephone	MTIF stated there was no meeting necessary; advised to check with the FMSF and insure that all state laws are to be followed for unmarked burials and NAGPRA, then if an issue comes up to contact them.
21-Oct-16	STOF sent an email with general guidelines sheet attached	Email	General guideline sheet for what to include about in specific project when consulting with the Tribe. Guidelines addressed info on project details so as not to provide too much ancillary information during consultation.
21-Oct-16	Sent STOF a draft agenda for review	Email	No response

Date	Item	Action	Notes
26-Oct-16	Bi-monthly cultural resources conference call	Telephone	STOF asked USCE to invite several individuals to the Array introduction meeting set for the following day. STOF was unaware the meeting date had been set
27-Oct-16	Meeting at Big Cypress with STOF	In Person	Introduction to initial array; agreed to meet again in order to discuss survey strategy in detail
4-Nov-16	Memo for Record (MFR) MFR1a draft sent to STOF	Email	requested comments within 30 days; asked for meeting dates suggestions
15-Nov-16	Communications to STOF requesting meeting dates in December	Email	Noted that USACE will be sending the probability model soon
22-Nov-16	Sent STOF probability assessment	Email	Probability assessment files attached; USACE sent summary report as well, including known sites with study area
6-Jan-17	Left message requesting STOF to call USACE re setting up a meeting to discuss the LOWRP survey strategy	Telephone	USACE left cell number as well; noted archaeologist was gone during month of December
9-Jan-17	STOF returned phone call to set up date for survey strategy discussion	Telephone	STOF noted that they wanted to avoid meeting in concert with the enviro and planning group for LOWRP; STOF stated that meeting re conference call about the survey strategy was fine and to use a webinar for presentation.
30-Jan-17	STOF participated in the LOWRP PDT consultation meeting with other members of STOF staff	In Person, Hollywood Offices	Summary of the current array of alternatives was provided, along with timelines; USACE spoke on archaeological survey strategy; also noted that K5 reservoir location has been significantly altered to avoid known archaeological sites
31-Jan-17	PDT consultation meeting with Miccosukee environmental and water resources staff	In person, SFWMD offices	Summary of the current array of alternatives was provided, along with timelines; USACE spoke on archaeological survey strategy; also noted that K5 reservoir location has been significantly altered to avoid of known archaeological sites
1-Feb-17	USACE met with STOF at the Big Cypress THPO offices	In Person, Big Cypress	USACE and STOF discussed survey locations and survey strategies; MFR sent on 2 Feb
2-Feb-17	MFR1b draft of Feb 1 meeting sent to STOF for review	Email	
10-Feb-17	Burial Resources Agreement Form 1b documenting Feb 1 meeting sent to STOF for review	Email	

Date	Item	Action	Notes
30-Mar-17	USACE met with STOF at Big Cypress THPO offices	In Person, Big Cypress	USACE presentation and discussion on final scope of work for CRAS survey. STOF approved pending receipt of the final Scope of Work document for review.
31-Mar-17	MFR1c and BRA form documenting Mar 30 meeting sent to STOF for review	Email	Sent with 30-day review period
21-Apr-17	Survey scope of work, and shapefiles for survey areas and for array locations sent to STOF via email; cc'd SFWMD	email	Items sent per request in prior meetings
25-Apr-17	Sent STOF probability assessment notes, via email	email	Email message noted the differences between probability from 2004 to 2005
2-May-17	Consultation meeting with STOF and LOWRP Team held in West Palm Beach	In person	USACE in attendance, THPO staff on telephone
11-May-17	STOF sent message for clarification of the APE for the survey; Robin replied with clarification and a clear map	email	STOF asked if the survey included portion of the K05 South in addition to K05 North; USACE noted the southern portion of the survey was not in K05 south to a significant degree; map sent for clarification.
7-Jun-17	Communications to STOF confirming that the scope of the archaeology survey had been discussed	email	STOF confirmed that USACE had feedback from STOF on survey scope. USACE replied back that face-to-face discussion was sufficient for understanding STOF needs; and STOF agreed
1-Aug-17	Consultation meeting with Miccosukee and LOWRP team, MTIF NAGPRA representative not in attendance	Teleconference; BIA invited	USACE provided overview of current survey effort; stated that consultation with MTIF was based on MTIF request to know whether any sites that are located could be affected.
2-Aug-17	Consult meeting with STOR and LOWRP team	Teleconference; BIA invited	Need feedback from Tribe via THPO on culturally sensitive locations within our array, and within the current survey areas.
31-Aug-17	Discussion and notification of reservoir footprint changes	Telephone/email	USACE phoned STOF and discussed the recent changes in the K42 and K05 footprints, which include the Kissimmee Circle site previously avoided, this was discussed. Email follow up included maps of these footprints.
1-Sep-17	Group consultation meeting with STOF in SFWMD offices	Telephone	USACE phoned in; STOF was in attendance, Caution note from STOF in how the Kissimmee Circle should be addressed
29-Sep-17	Shapefiles of new K05 and K42 sent to STOF	Email	USACE GIS resent as shape files that wouldn't open

Date	Item	Action	Notes
10-Oct-17	Discussion of LOWRP survey status, K05 changes	Face to face	Discussed potential investigations of K05, noted that SOW will be run by STOF for review prior to conducting activities
11-Oct-17	STOF sent request for map or shape files of K05 probability	Email	
	Sent STOF SEARCH's latest progress report; and the SEARCH shape files of K05 archaeological probability zones	Email	Report includes map of probability zones and location of recently located site
7-Nov-17	Bimonthly meeting held with STOF	Telephone	Discussion on LOWRP, provided overview of survey and 8GL0039 plans; STOF expressed concerns about planning, that not enough survey has been conducted to assess best plan options. STOF requested timeline of consulting in relation to timeline of planning decisions be submitted.
7-Nov-17	Re-sent K42 LiDAR to STOF	Email	
7-Nov-17	Forwarded most recent survey update to STOF	Email	Identification of new site included.
21-Nov-17	Discussion of 8GL0039 and status of BRA	Telephone	Discussed approval of SOW for 8GL0039, and discussed desired agenda topics for the upcoming government to government meeting on 29 Nov
21-Nov-17	Emails from STOF regarding 8GL0039,	Email	
22-Nov-17	Technical Memo sent to STOF	Email	Email requesting feedback on the information and noted this information was a read ahead for Government to Government meeting the following week
22-Nov-17	Email reply STOF	Email	STOF inquired about the nature of the Technical MFR; USACE responded to the inquiry and also noted that the USACE is still in phase I of the BRA (which was also a question from STOF)
27-Nov-17	MFR1d sent to STOF	Email	MFR is summary of discussions and plans for 8GL0039;
11-Dec-17	Email from STOF.	Email	Inquiry re: request for landowner permission at Kissimmee Circle Earthworks site
19-Dec-17	Email reply to STOF.	Email	Response to inquiry about landowner access to the site and contract modification of current SEARCH CRAS survey contract
20-Dec-17	Email from STOF.	Email	Request for digital copy of LOWRP CR MFR
20-Dec-17	Email reply to STOF.	Email	Response to request for a digital copy of LOWRP CR MFR

Date	Item	Action	Notes
12-Feb-18	Email STOF	Email	Response with attached digital files to request for digital shapefile of the K05 Alt 1B Shallow
20-Feb-18	Upload for STOF of report to AMRDEC File share	Electronic upload	Upload of LOWRP CRAS Technical Report to AMRDEC
12-Mar-18	Letter and LOWRP CRAS Technical Report (Draft)	FedEx	Letter requesting review of the report and a copy the draft LOWRP CRAS Technical Report transmitted to the Seminole, Miccosukee, Thlopthlocco Tribal Town, and Seminole Indian Nation of Oklahoma
6-Apr-18	Letter from SHPO	Letter	SHPO letter concurring on NRHP determinations and recommendations on the CRAS report.
24-Apr-18	Email from STOF.	Email	Request for Assistance in getting a digital copy of the LOWRP CRAS Report.
25-Apr-18	Phone call to MTIF	Phone	Phone call to Miccosukee documenting comments on the LOWRP CRAS Survey Report
25-Apr-18	Email to STOF.	Email	Response to STOF with the FedEx tracking number
25-Apr-18	Email from Seminole Tribe of Oklahoma	Email	Response from Seminole Nation of Oklahoma, HPO Officer re: LOWRP CRAS Survey Report
25-Apr-18	Phone call and follow up email	Phone & Email	Response to STOF re: LOWRP CRAS Survey
26-Apr-18	Email and Electronic letter from Thlopthlocco Tribal Town THPO	Email	Email letter with comments from Thlopthlocco Tribal Town on LOWRP CRAS Survey Report
30-Apr-18	Email and Phone call to STOF.	Phone and Email	Request to have a discussion about 8GL77
1-May-18	Upload for STOF of report to AMRDEC File share	Electronic upload	Upload of LOWRP CRAS Technical Report to AMRDEC
1-May-18	Email	Email	Email re: Electronic upload of report to ARMDEC and electronic communications with STOF
5-May-18	Email to STOF	Email	Request for comments on LOWRP CRAS Report
2-May-18	Email from Thlopthlocco Tribal Town, THPO	Email	Email with re: Preliminary response to comments on LOWRP CRAS Report. To be followed up with full item by item response.
5-May-18	Email to STOF M	Email	GIS files for the K05w (WAF) footprint
8-May-18	Email from STOF	Email	Request for Mtg.

Date	Item	Action	Notes
10-May-18	Email from STOF	Email	Re: Request for Mtg. scheduling
15-May-18	Email from STOF	Email	Follow up on request for scheduling a Mtg. STOF
15-May-18	Email from STOF	Email	Follow up on request for scheduling a Mtg. STOF
15-May-18	Email from STOF	Email	Request for meeting on May 30th
16-May-18	Email from STOF	Email	Follow up on request for meeting on April 30th
16-May-18	Email from STOF	Email	Meeting invite for May 30th
16-May-18	Email from STOF	Email	Re: Schedule for LOWRP report review
17-May-18	Email from STOF	Email	Concurrence on DOE issues with the LOWRP CRAS Survey report
29-May-18	Emails from USACE	Email	Govt to Govt Meeting Webinar Agenda, Maps, Description of Archaeological Sites
30-May-18	Teleconference between STOF and USACE	Webinar	Discussion/Update on LOWRP Cultural Resources within TSP
30-May-18	Email from STOF	Email	Tracking 0029311. Update on the LOWRP project
31 May-18	Email from USACE	Email	Email with GIS files for survey areas and new archaeological sites from SEARCH CRAS Survey
1-June-18	Email from STOF	Email	Email with two proposed STOF Alternatives for avoiding potential impacts to 8GL77
4-June-18	Email from USACE	Email	Email to STOF with edited Mtg. Notes from G to G Meeting on 30-May-2018
6-June-18	Email from USACE	Email	Re: Scheduling Mtg. to discuss Tree Islands within WAF footprint
6-June-18	Email from STOF	Email	Re: Scheduling Mtg. re: elevations and flow in the WAF. Possibly with ERMD.
11-June-18	Email from STOF	Email	Tracking 0029311. Re: Scheduling a Consultation Mtg.
25-June-18	Letter from USACE	Mail and Email	Consultation letter indicating need for additional surveys and consultation in PED and a request for continued consultation. Sent to the SHPO, Seminole, Miccosukee, and Seminole Indian Nation of Oklahoma

Date	Item	Action	Notes
25-June-18	Letter from USACE	Mail and Email	Response to April 26 Email and letter from Thlopthlocco Tribal Town
11-July-18	Email from Seminole Nation of Oklahoma	Email	Response to 25-June-18 letter from USACE
30-July-18	Letter from Thlopthlocco Tribal Town	Mail	Response to 25 June-18 letter from USACE
3-August-18	Email from SHPO	Email	Response from 12-July-18 Florida State Clearinghouse notification.
10-August-18	Letter from MTIF	Mail	MTIF comments on Draft PIR/EIS, including concern on the presence of cultural resources within the project footprint.
20-August-18	Letter from STOF	Mail	STOF comments on Draft PIR/EIS, including cultural resources impacts
3-October-18	Letter from SHPO	Mail and Email	Review of the draft PIR/EIS.
21-December-18	Letter from STOF	Mail	Follow-up to 20 August 2018 letter to Major General Spellmon and Lieutenant General Semonite
10-May-19	Letter from USACE	Mail and Email	Request from USACE to ACHP, SHPO, Miccosukee, Seminole Nation of Oklahoma, STOF, and Thlopthlocco Tribal Town to comply with Section 106 of the NHPA through execution of a Programmatic Agreement.
24-May-19	Letter from ACHP	Email	Agreement to Participate in a Programmatic Agreement
16-July-19	Email from SHPO	Email	Comments on Programmatic Agreement
26-July_19	Letter from ACHP	Email	Comments on Programmatic Agreement
27-September-19	Letter from USACE	Mail and Email	Letter from USACE to ACHP, SHPO, Miccosukee, Seminole Nation of Oklahoma, STOF, and Thlopthlocco Tribal Town to review Programmatic Agreement.
31-October-19	Email from STOF	Email	STOF comments on Programmatic Agreement
	Section 106 Correspondence attached		

**C.5.3 Written Correspondence**

This subsection contains copies of Section 106 consultation correspondence.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

SEP 29 2016

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

Dr. Paul Backhouse, THPO  
Seminole Tribe of Florida  
Tribal Historic Preservation Office  
30290 Josie Billie Highway  
PMP 1004  
Clewiston, Florida 33440

Dear Dr. Backhouse:

I would like to request a meeting to discuss cultural resources considerations in relation to the Lake Okeechobee Watershed Restoration Project (LOWP) as part of ongoing consultation under Section 106 of the National Historic Preservation Act, the U.S. Army Corps of Engineers (Corps) Trust Responsibility to Native American Tribes, and the Burial Resources Agreement between the Corps and the Seminole Tribe of Florida. As stated in a letter sent to the Honorable James Billie, Chairman dated June 24, 2016, the Corps, Jacksonville District, in partnership with the South Florida Water Management District, have initiated an 18-month expedited feasibility study of the LOWP. The ultimate purpose of the project is to restore wetland habitat within the Fisheating Creek, Indian Prairie, and Taylor Creek/Nubbin Slough sub-watersheds, S-650 and S-65E basins, and Lake Okeechobee to improve the quantity and timing of water entering Lake Okeechobee and the northern estuaries; and to improve regional water management operational flexibility in context of the overall Everglades ecosystem restoration (Figure 1).

We thank the Seminole Tribe of Florida for your continued participation as a member of the LOWP Project Delivery Team (PDT). The PDT has developed a preliminary array of alternatives and assessing information needs regarding archaeological and cultural sites, traditional cultural properties, and burial resources that might be affected within these potential activity areas is a major goal of the next phase of this planning process.

We would appreciate the opportunity to meet with you and your staff to discuss the areas included in the array of alternatives, and the considerations and concerns about potential affects to cultural resources within the project area. We will send required maps and shapefiles to your office detailing the alternative locations well in advance of our meeting in order for your team to have sufficient time to review the information for discussion.

We understand that there is both the immediate need for consultation and for long term dialogue on the overall project and will work with your staff to determine the best way to keep you informed and to seek your input throughout the process. We will follow this letter up with communications to establish a meeting date that is suitable to you, and please feel free to contact the project archeologist Mr. Robin Moore at (904) 232-1363 or by email at [Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil) if you have any questions about the information in this letter.

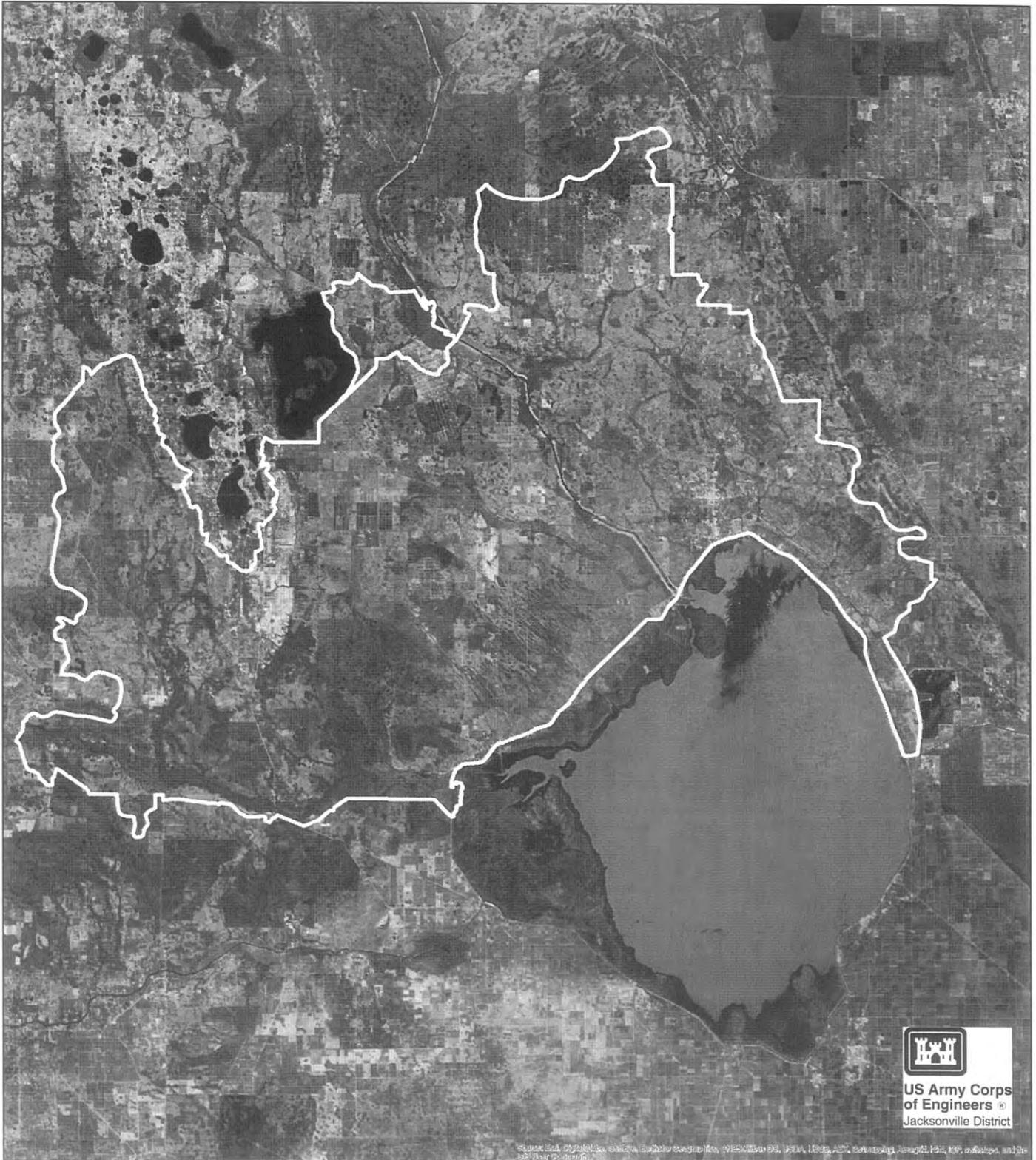
Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

**Figure 1. Lake Okeechobee Watershed Project Area**



**Legend**

LOWP Project Boundary

0 3.75 7.5 15 Miles





**DEPARTMENT OF THE ARMY**  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

SEP 23 2016

Fred Dayhoff, Tribal Representative  
NAGPRA, Section 106  
Miccosukee Tribe of Indians of Florida  
HC 61 SR 68  
Ochopee, Florida 34141

Dear Mr. Dayhoff:

I would like to request a meeting to discuss cultural resources considerations in relation to the Lake Okeechobee Watershed Restoration Project (LOWP) as part of ongoing consultation under Section 106 of the National Historic Preservation Act, and the U.S. Army Corps of Engineers (Corps) Trust Responsibility to Native American Tribes. As stated in a letter sent to the Honorable Billy Cypress, Chairman dated June 24, 2016, the Corps, Jacksonville District, in partnership with the South Florida Water Management District, have initiated an 18-month expedited feasibility study of the LOWP. The ultimate purpose of the project is to restore wetland habitat within the Fisheating Creek, Indian Prairie, and Taylor Creek/Nubbin Slough sub-watersheds, S-650 and S-65E basins, and Lake Okeechobee to improve the quantity and timing of water entering Lake Okeechobee and the northern estuaries; and to improve regional water management operational flexibility in context of the overall Everglades ecosystem restoration (Figure 1).

We thank the Miccosukee Tribe of Indians of Florida for continued participation as a member of the LOWP Project Delivery Team (PDT). The PDT has developed a preliminary array of alternatives and assessing information needs regarding archaeological and cultural sites, traditional cultural properties, and burial resources that might be affected within these potential activity areas is a major goal of the next phase of this planning process.

We would welcome the opportunity to meet with you and your staff to discuss the areas included in the array of alternatives, and the considerations and concerns about potential affects to cultural resources within the project area. We will send required maps and shapefiles to your office detailing the alternative locations well in advance of our meeting in order for your team to have sufficient time to review the information for discussion.

We understand that there is both the immediate need for consultation and for long term dialogue on the overall project and will work with your staff to determine the best way to keep you informed and to seek your input throughout the process. We will follow this letter up with communications to establish a meeting date if desired, and please feel free to contact the project archeologist Mr. Robin Moore at (904) 232-1363 or by email at Robin.E.Moore@usace.army.mil if you have any questions about the information in this letter.

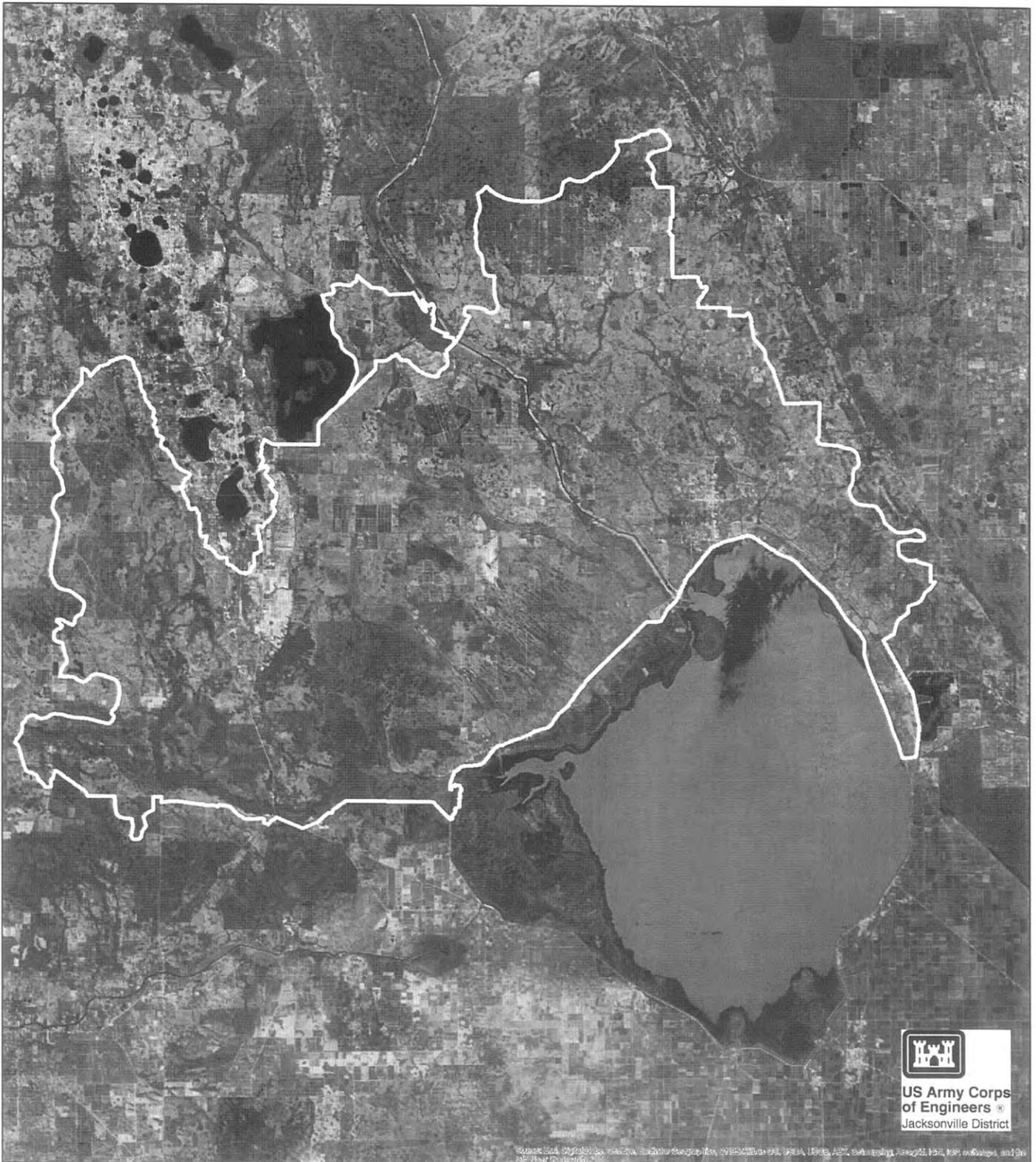
Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

**Figure 1. Lake Okeechobee Watershed Project Area**



**Legend**

LOWP Project Boundary

0 3.75 7.5 15 Miles



**SUBJECT:** Meeting between STOF staff and USACE SAJ staff on 27 October 2016, at Ah-Tah-Thi-Ki Museum on the Big Cypress Reservation between 9:00 AM - 11:00 AM.

**ATTENDEES:** Bradley Mueller (STOF-THPO), Anne Mullins (STOF-THPO), Michelle Diffenderfer (STOF Counsel), Tim Gysan (USACE), Robin Moore (USACE), Lisa Aley (USACE-telephone), Gretchen Ehlinger (USACE-telephone)

**PURPOSE:** Jacksonville District staff met with the Seminole Tribe's Tribal Historic Preservation Office (THPO) staff to discuss the Lake Okeechobee Watershed Project (LOWP) initial array of alternatives. The meeting focused on introducing the array to THPO staff, discussing cultural resources topics as they relate to the locations of the alternatives, and discussing considerations of the STOF staff for purposes of meaningful consultation. An agenda (sent 21 October 2016 ) and shapefiles of the array locations (sent 29 Sept 2016) were submitted to THPO staff for review in advance of the meeting.

1. Mr. Moore provided an overview of the LOW project including the project boundaries, goals and objectives, and the level of public and stakeholder input that has gone into establishing the initial array of alternatives. Mr. Gysan provided an overview of the planning process for the project and discussed the project timeline.
2. Mr. Moore discussed the management measures identified for the array of alternatives (reservoirs, wetland restoration, deep injection wells, and aquifer storage and recovery wells). Discussion of deep injection wells (DIW) ensued. Ms. Diffenderfer noted that the STOF is concerned about use of the DIW, especially in connection with the ongoing LORS 2008 schedule and how both could affect tribal water supplies. The concept that DIW removes water from the available supply is of concern. Ms. Aley offered that the intent is to use them very strategically during times of extreme high water levels in order to reduce undesirable releases to the northern estuaries, pointing out that such excess waters would normally be lost to the tide in the estuaries.

Mr. Moore provided an overview of the initial array locations noting that the locations are broad areas and that the team has not yet established any conceptual footprints of actual construction features within these locations. The locations include four potential reservoir locations and five wetland restoration locations. The DIW and ASR locations were shown as purely conceptual at this time but they are planned to be located on SFWMD lands and adjacent to reservoirs and canals. Mr. Moore emphasized that updated information pertaining to more specific locations of construction features within the areas will be sent STOF staff as soon as the LOWP team formulates these.

3. The discussion then moved to Cultural Resources within the array locations and strategies for identifying such resources. Mr. Moore noted that out of 449 identified sites on the Florida Master Site File (FMSF) within the entire LOWP boundaries, only five identified archaeological sites fall within the array locations. The minimal number is a consequence of the lack of cultural resources surveys that have been undertaken within these areas. Ms. Mullins inquired about the sources of data for cultural resources information. Mr. Moore replied that most all of this data is from recent

updates of the FMSF. Ms. Mullins noted that the STOF maintains a resource database that includes additional information beyond the FMSF data and STOF staff will review their database and provide any relevant information at the next scheduled meeting. Mr. Mueller also stated that they will begin the process of inquiring with STOF community about historical or cultural locations that may be known within the array areas.

4. Mr. Mueller noted that assessing the Area of Potential Effect with regards to cultural resources could be challenging as effects may occur outside of the actual construction footprints. Mr. Moore stated that effects such as potential ground water level changes will be modelled as the project moves into more detailed phases, and known sites in proximity will be looked at in more detail accordingly.
5. Mr. Moore discussed the Archaeological Probability Model that was developed in 2004 for the LOWP study area. The model needs to be tested in the field for accuracy but can be of value in survey planning. He would like to get feedback from STOF staff on the model and will send the model data to Mr. Mueller as soon as possible. The model should be discussed at the next planned meeting.
6. Ms. Mullins asked if there are any LOWP plans for construction activities/direct impacts on Brighton Reservation lands. Mr. Gysan responded that there are currently no such plans. Ms. Mullins noted that there may be privately-owned, non-trust properties in the proposed project locations owned by individual Seminole Tribal members and these owners may ultimately prefer that STOF staff conduct any necessary surveys on these properties versus the Corps. This will be addressed at the appropriate time but we should be aware of that possibility. Ms. Diffenderfer asked about the process for siting ASRs and Mr. Gysan noted that the team will be addressing more specific locations within the next 90 days as they start getting into the conceptual design phase of the planning process. Mr. Moore noted that an objective for cultural resource considerations is to have initial reconnaissance surveys in select areas of conceptual design as soon as possible in order to help inform the process.
7. Mr. Mueller noted he would like to meet again as soon as possible to establish initial survey strategies and to get a firm understanding of the amount of area that will be involved in these initial survey efforts. Mr. Moore agreed and will start sending relevant data to Mr. Mueller in anticipation of a meeting for late November or early December.
8. **Action :**  
*USACE staff:* Send the probability model and relevant FMSF information. Any previous surveys should be reviewed to determine if the level of survey was sufficient.  
Send out updated project footprints as they become available.  
*THPO staff:* Evaluate survey coverage in reports; review STOF data for cultural resources in array areas; establish proposed meeting time for next meeting.

SUBJECT: Meeting between STOF staff and USACE SAJ staff on 1 February 2017, at Ah-Tah-Thi-Ki Museum on the Big Cypress Reservation between 10:00 AM – 12:30 AM.

ATTENDEES: Bradley Mueller (STOF-THPO), Victoria Munchaca (STOF-THPO), Robin Moore (USACE)

PURPOSE: Jacksonville District staff met with the Seminole Tribe's Tribal Historic Preservation Officer (THPO) staff to discuss the Lake Okeechobee Watershed Project (LOWP) archaeological survey needs and strategies.

1. Mr. Moore introduced the parameters of the survey noting that within the entire LOWP boundaries the survey areas are confined to SFWMD-owned properties within the selected array of alternatives. Most of that land falls within the Kissimmee River and Paradise Run wetland restoration areas, and the K05 and Istokpoga proposed reservoir areas. *The goals of the survey are to identify sites and test/refine the current probability model.* The probability model and associated project area cultural resources assessment document was emailed to STOF in November. Currently known burial sites and mounds have been avoided in the current array via modifications to the K05 footprint.
2. Discussion ensued on approaches to meet both survey goals, which could include random sampling testing as well as targeted, judgmental testing in higher probability locations to identify as many sites as possible. The sampling may have to be done prior to the judgmental testing in order to acquire balanced data for testing the model. Evenly spaced testing across probability areas is also an alternative. The final combination of testing strategy will be dependent upon funds available balanced with the level of field work involved for each strategy. The Kissimmee and Paradise Run project areas will be tested judgmentally.
3. Mr. Moore noted that background research will inform the field work including historic documents and maps, historic aerials, lidar, soil mapping, and other standard research data. *Mr. Mueller noted that it is important to clearly state in the report the background research that was utilized and to perhaps show imagery pertaining to this research as figures in the report (like relevant historic aerials).* **Mr. Mueller asked if the Corps has digitized any of the historic aerial sets. Mr. Moore will check on that.**
4. Discussion on STOF-held data ensued. Mr. Mueller noted that the information can include tribal member input in addition to the GIS-based data held by the THPO. **Mr. Moore will send two sets of shapefiles with a request for STOF to assess in relation to their data.** These sets include: the larger array of alternatives shapefiles, and the smaller areas of SFWMD-owned lands planned for the current survey effort.
5. Timing of the survey effort was discussed. *Mr. Moore noted that he will be preparing a contract for survey work in the next weeks,* and hopes to have a contractor ready to sign a contract within two months. The draft Scope of Work will be sent to STOF for feedback prior to finalization.

**ACTION:**

*USACE staff:* Send most updated shapefiles of project array locations, and of SFWMD lands within the arrays that will be surveyed; determine if USACE has geo-referenced, historic aerials; send out draft Scope of Work for the SFWMD lands survey.

*THPO staff:* Review STOF data for cultural resources in array areas; review current probability model document for any questions; review draft Scope of Work for feedback.

SUBJECT: Meeting between STOF staff and USACE SAJ staff on 30 March 2017, at Ah-Tah-Thi-Ki Museum on the Big Cypress Reservation between 9:00 AM – 10:30 AM.

ATTENDEES: Bradley Mueller (STOF-THPO), Victoria Munchaca (STOF-THPO), Anne Mullins (STOF-THPO), Robin Moore (USACE)

PURPOSE: Jacksonville District staff met with the Seminole Tribe's Tribal Historic Preservation Officer (THPO) staff to discuss the final scope of work for Lake Okeechobee Watershed Project (LOWP) initial archaeological survey.

1. Mr. Moore introduced updates to the array of alternatives for reservoir locations, noting that the larger "K05 Big" reservoir location has been reduced to just the "K05 North" location, with the possibility of extension to the south adjacent to the Kissimmee River. The horizontal portion of the K05, which was the area closest to the Brighton Reservation, has been taken out of the array of alternatives.
2. Mr. Moore noted that the survey efforts for this year are still confined to SFWMD-owned properties within the selected array of alternatives, and that the survey efforts will focus on reservoir locations (versus wetland restoration locations). These parameters leave only the SFWMD lands within the remaining K05 area as the focus of survey. This reduced area will allow more intensive archaeological survey within the budget restrictions than previously discussed with THPO staff in February.
3. The survey will follow the State's standards for Cultural Resources Assessment Surveys (CRAS), using the LOWP Archaeological Probability Model developed in 2005 to delineate probability zones. Additionally, the contractor will review historic aerials, topo maps, and LiDAR data to select areas for judgemental testing within Low Probability areas, and within hydric soil areas.
4. Discussion ensued on the preferred methods for Low Probability coverage. Bradley asked if the approach will be a gridded shovel test every 100 meters until 10% of the Low areas is met (per state standards) or if the 10% coverage will be met via judgmental testing instead of gridding. THPO and USACE staff agreed that judgemental testing versus grid testing is the preferred method for the survey. THPO staff also stated that all field decisions should be explicitly narrated in the report so that the shovel testing strategies are clearly understood. Mr. Moore agreed to state this in the scope of work.
5. As discussed in the previous meeting, **Mr. Moore will send two sets of shapefiles with a request for STOF to assess in relation to their data.** These sets include: the larger array of alternatives shapefiles, and the smaller areas of SFWMD-owned lands planned for the current survey effort.
6. Timing of the survey effort was discussed. *Mr. Moore noted that* hopes to have a contractor ready to sign a contract within two months. Ms. Menchaca noted that June will be in the wet season, which can severely hamper field efforts. Mr. Moore will investigate the options for timing of the field work.

**ACTION:**

*USACE staff:* Send most updated shapefiles of project array locations, and of SFWMD lands within the arrays that will be surveyed; send out draft Scope of Work for the SFWMD lands survey.

*THPO staff:* Review STOF data for cultural resources in survey areas, review draft Scope of Work for feedback.

**From:** Moore, Robin E CIV USARMY CESAJ (US)  
**To:** [Bradley Mueller](#); ["Victoria Menchaca"](#)  
**Cc:** [Taplin, Kimberley A CIV USARMY CESAJ \(US\)](#); [Ramirez, Armando](#)  
**Subject:** LOWP Archaeology Survey Plans  
**Date:** Friday, April 21, 2017 9:52:00 AM  
**Attachments:** [LOWP PWS for STOF.pdf](#)

---

Dear Bradley,

I will be sending to you, in the next few emails, several files associated with the Lake Okeechobee Watershed Project archaeological survey for the K05 proposed reservoir area. As discussed in the past, this survey only encompasses those lands within the proposed K05 area that are owned by the South Florida Water Management District.

Attached to this current email is the proposed Scope of Work for the survey. I have deleted all of the extraneous sections that deal with contracting and provided only the items associated with the scope. Please feel free to review and offer any questions or concerns you may have with the proposed work.

I will follow up with ArcGIS shapefiles of the specific survey areas.

Finally, the last set of shapefiles will be the current shapes of the array of alternatives.

Thank you,

Robin Moore

---

Robin E. Moore, MA/RPA  
Archaeologist  
Environmental Branch, South Florida Section,  
Planning Division USACE, Jacksonville District  
701 San Marco Blvd.  
Jacksonville Fl. 32207  
904 232-1363 (office)  
[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)

**From:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**To:** [Bradley Mueller](#); [Victoria Menchaca](#)  
**Cc:** [Ramirez, Armando](#); [Taplín, Kimberley A CIV USARMY CESAJ \(US\)](#)  
**Subject:** LOWP Array shapefiles  
**Date:** Friday, April 21, 2017 1:53:00 PM  
**Attachments:** [LOWP Array Files STOF.zip](#)

---

Bradley,

Please find attached, a zip file containing shapefiles for the potential reservoir and wetland restoration locations for LOWP. Various combinations of the reservoir locations mixed with all of the wetland areas are being considered for a selected plan. It is currently my understanding the K05 South (K05S) is not a preferred location, therefore this area was not included in the current archaeological survey scope per the LOWP project manager's direction. STOF staff will receive an update on the array at the next Consultation Meeting on May 2 at the SFWMD offices.

Please let me know if you have any issues accessing the data, or any questions about the locations.

Sincerely,

Robin Moore

---

Robin E. Moore, MA/RPA  
Archaeologist  
Environmental Branch, South Florida Section,  
Planning Division USACE, Jacksonville District  
701 San Marco Blvd.  
Jacksonville Fl. 32207  
904 232-1363 (office)  
[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)

**From:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**To:** [Bradley Mueller](#)  
**Subject:** LOWP Probability Model  
**Date:** Tuesday, April 25, 2017 10:00:00 AM  
**Attachments:** [LOWP probability model 2005 update.pdf](#)

---

Bradley,

Please find attached some notes I had made in the past on the LOWP probability model, for your interest. The initial one was created in 2003, but then was refined by 2005. We are using the 2005 model for the upcoming LOWP K05 Survey. The 2005 model added a great deal of square footage to the high probability locations by counting hydric soils as potential water sources. Conversely, this removed most of the hydric soils from low probability in general.

Robin

---

Robin E. Moore, MA/RPA  
Archaeologist  
Environmental Branch, South Florida Section,  
Planning Division USACE, Jacksonville District  
701 San Marco Blvd.  
Jacksonville Fl. 32207  
904 232-1363 (office)  
[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)

**From:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**To:** [Bradley Mueller](#)  
**Cc:** [Anne Mullins](#)  
**Subject:** RE: Lake Okeechobee Watershed Project  
**Date:** Thursday, May 11, 2017 12:53:00 PM  
**Attachments:** [K05 Overview.jpg](#)

---

Hi Bradley,

That is correct. Although the majority of the southern survey area is not really in K05 South. I have attached a map that provides an overview of the survey areas in relation to the CURRENT K05 North and South outlines. These two reservoir outlines have been something of a moving target as more feedback is garnered from meetings.

Robin E. Moore, MA/RPA  
Archaeologist  
Planning Division USACE, Jacksonville District  
904 232-1363 (office)

-----Original Message-----

From: Bradley Mueller [<mailto:bradleymueller@semtribe.com>]  
Sent: Thursday, May 11, 2017 10:28 AM  
To: Moore, Robin E CIV USARMY CESAJ (US) <[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)>  
Cc: Anne Mullins <[AnneMullins@semtribe.com](mailto:AnneMullins@semtribe.com)>  
Subject: [Non-DoD Source] Lake Okeechobee Watershed Project

Good Morning Robin,

Subject: Lake Okeechobee Watershed Project

THPO #: 0029311

I have been reviewing the PWS for this project and wanted to be sure I understood the proposed APE. As I interpret Technical Exhibit 3 (page 8) of the PWS document, the proposed investigations will include portions of the K-05 North Reservoir and portions of the northern part of the K-05 South reservoir? Can you confirm this? Thank you!

Respectfully,

Bradley M. Mueller, MA, Compliance Supervisor

STOF-THPO, Compliance Review Section

30290 Josie Billie Hwy, PMB 1004

Clewiston, FL 33440

Office: 863-983-6549 ext 12245

Fax: 863-902-1117

Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com) <<mailto:bradleymueller@semtribe.com>>

Web: Blockedwww.stofthpo.com

**From:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**To:** [Bradley Mueller](#)  
**Cc:** [Anne Mullins](#)  
**Subject:** RE: Lake Okeechobee Watershed Project  
**Date:** Thursday, May 11, 2017 1:04:00 PM  
**Attachments:** [K05 Overview.jpg](#)

---

Hi Bradley,

I have attached a map that provides a more clear layout of where the survey areas are in comparison to the CURRENTLY proposed reservoir footprints are. These footprints are consistently being modified as the team gains more input.

Robin E. Moore, MA/RPA  
Archaeologist  
Planning Division USACE, Jacksonville District  
904 232-1363 (office)

-----Original Message-----

From: Bradley Mueller [<mailto:bradleymueller@semtribe.com>]  
Sent: Thursday, May 11, 2017 10:28 AM  
To: Moore, Robin E CIV USARMY CESAJ (US) <[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)>  
Cc: Anne Mullins <[AnneMullins@semtribe.com](mailto:AnneMullins@semtribe.com)>  
Subject: [Non-DoD Source] Lake Okeechobee Watershed Project

Good Morning Robin,

Subject: Lake Okeechobee Watershed Project

THPO #: 0029311

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Respectfully,

Bradley M. Mueller, MA, Compliance Supervisor

STOF-THPO, Compliance Review Section

30290 Josie Billie Hwy, PMB 1004

Clewiston, FL 33440

Office: 863-983-6549 ext 12245

Fax: 863-902-1117

Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com) <<mailto:bradleymueller@semtribe.com>>

Web: Blockedwww.stofthpo.com

**From:** [Bradley Mueller](#)  
**To:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**Cc:** [Anne Mullins](#)  
**Subject:** [Non-DoD Source] Lake Okeechobee Watershed Project  
**Date:** Thursday, May 11, 2017 11:45:59 AM  
**Attachments:** [image002.png](#)

SEMINOLE TRIBE OF FLORIDA  
TRIBAL HISTORIC PRESERVATION OFFICE  
AH-TAH-THI-KI MUSEUM

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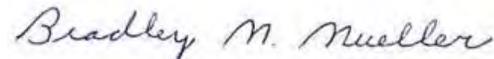
<p>TRIBAL HISTORIC PRESERVATION OFFICE</p> <p>SEMINOLE TRIBE OF FLORIDA AH-TAH-THI-KI MUSEUM</p> <p>30290 JOSIE BILLIE HIGHWAY PMB 1004 CLEWISTON, FL 33440</p> <p>THPO PHONE (863) 983-6549 MUSEUM PHONE: (863) 902-1113 FAX: (863) 902-1117</p> <p>THPO WEBSITE: <a href="http://WWW.STOFTHPO.COM">WWW.STOFTHPO.COM</a> MUSEUM WEBSITE: <a href="http://WWW.AHTAKHIKI.COM">WWW.AHTAKHIKI.COM</a></p>	 <p>The logo is circular with a black border. Inside, it says 'TRIBAL HISTORIC' at the top and 'PRESERVATION OFFICE' at the bottom. The center features a smaller circle with 'SEMINOLE TRIBE OF FLORIDA' and 'IN GOD WE TRUST' around a central image of a Seminole house.</p>	 <p>The logo is a colorful, stylized banner with 'AH-TAH-THI-KI' in the center, 'MUSEUM' below it, and '20 Years' and '1997-2017' on either side.</p>	<p><u>TRIBAL OFFICERS</u></p> <p>MARCELLUS W. OSCEOLA JR. CHAIRMAN</p> <p>MITCHELL CYPRESS VICE CHAIRMAN</p> <p>LAVONNE ROSE SECRETARY</p> <p>PETER A. HAHN TREASURER</p>
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Good Morning Robin,

**Subject:** Lake Okeechobee Watershed Project  
**THPO #:** 0029311

I have been reviewing the PWS for this project and wanted to be sure I understood the proposed APE. As I interpret Technical Exhibit 3 (page 8) of the PWS document, the proposed investigations will include portions of the K-05 North Reservoir and portions of the northern part of the K-05 South reservoir? Can you confirm this? Thank you!

Respectfully,



Bradley M. Mueller, MA, Compliance Supervisor  
STOF-THPO, Compliance Review Section  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440

Office: 863-983-6549 ext 12245  
Fax: 863-902-1117  
Email: [bradleymueller@semtibe.com](mailto:bradleymueller@semtibe.com)  
Web: Blockedwww.stofthpo.com

**From:** [Bradley Mueller](#)  
**To:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**Subject:** [Non-DoD Source] Lake Okeechobee Watershed Project  
**Date:** Tuesday, June 6, 2017 4:48:08 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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SEMINOLE TRIBE OF FLORIDA  
TRIBAL HISTORIC PRESERVATION OFFICE  
AH-TAH-THI-KI MUSEUM

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<p>TRIBAL HISTORIC PRESERVATION OFFICE</p> <p>SEMINOLE TRIBE OF FLORIDA AH-TAH-THI-KI MUSEUM</p> <p>30290 JOSIE BILLIE HIGHWAY PMB 1004 CLEWISTON, FL 33440</p> <p>THPO PHONE (863) 983-6549 MUSEUM PHONE: (863) 902-1113 FAX: (863) 902-1117</p> <p>THPO WEBSITE: <a href="http://WWW.STOFTHPO.COM">WWW.STOFTHPO.COM</a> MUSEUM WEBSITE: <a href="http://WWW.AHTAHTHIKI.COM">WWW.AHTAHTHIKI.COM</a></p>			<p>TRIBAL OFFICERS</p> <p>MARCELLUS W. OSCEOLA JR. CHAIRMAN</p> <p>MITCHELL CYPRESS VICE CHAIRMAN</p> <p>LAVONNE ROSE SECRETARY</p> <p>PETER A. HAHN TREASURER</p>
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June 6, 2017

Subject: Lake Okeechobee Watershed Project – Performance Work Statement  
THPO #: 0029311

Hello Robin,

Do I still need to take a look at the proposed performance work standard for the LOWP? Thank you.

Respectfully,



Bradley M. Mueller, MA, Compliance Supervisor  
STOF-THPO, Compliance Review Section  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440  
Office: 863-983-6549 ext 12245  
Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com)

**From:** [Bradley Mueller](#)  
**To:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**Subject:** [Non-DoD Source] RE: Lake Okeechobee Watershed Project  
**Date:** Wednesday, June 7, 2017 8:17:11 AM

---

Good Morning Robin,

OK. I just wanted to be sure I didn't owe you anything. TY. Now about that 1322 Brickell Dr. project? LOL

Bradley M.

-----Original Message-----

From: Moore, Robin E CIV USARMY CESAJ (US) [<mailto:Robin.E.Moore@usace.army.mil>]  
Sent: Wednesday, June 07, 2017 7:22 AM  
To: Bradley Mueller  
Subject: RE: Lake Okeechobee Watershed Project

Bradley,

We had generally agreed upon the survey strategy at our last face-to-face. I was providing the document in the event you had any final questions. I had not heard back on the topic and have been trying to forward the document through our contracting processes, but you are still welcome to comment.

Thank you,

Robin E. Moore, MA/RPA  
Archaeologist  
Planning Division USACE, Jacksonville District  
904 232-1363 (office)

-----Original Message-----

From: Bradley Mueller [<mailto:bradleymueller@semtribe.com>]  
Sent: Tuesday, June 06, 2017 2:42 PM  
To: Moore, Robin E CIV USARMY CESAJ (US) <[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)>  
Subject: [Non-DoD Source] Lake Okeechobee Watershed Project

June 6, 2017

Subject: Lake Okeechobee Watershed Project - Performance Work Statement

THPO #: 0029311

Hello Robin,

Do I still need to take a look at the proposed performance work standard for the LOWP? Thank you.

Respectfully,

Bradley M. Mueller, MA, Compliance Supervisor

STOF-THPO, Compliance Review Section

30290 Josie Billie Hwy, PMB 1004

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Office: 863-983-6549 ext 12245

Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com)

**From:** [Moore, Robin E CIV USARMY CESAJ \(US\)](#)  
**To:** [Bradley Mueller](#)  
**Subject:** RE: Lake Okeechobee Watershed Project  
**Date:** Wednesday, June 7, 2017 7:21:00 AM

---

Bradley,

We had generally agreed upon the survey strategy at our last face-to-face. I was providing the document in the event you had any final questions. I had not heard back on the topic and have been trying to forward the document through our contracting processes, but you are still welcome to comment.

Thank you,

Robin E. Moore, MA/RPA  
Archaeologist  
Planning Division USACE, Jacksonville District  
904 232-1363 (office)

-----Original Message-----

From: Bradley Mueller [<mailto:bradleymueller@semtribe.com>]  
Sent: Tuesday, June 06, 2017 2:42 PM  
To: Moore, Robin E CIV USARMY CESAJ (US) <[Robin.E.Moore@usace.army.mil](mailto:Robin.E.Moore@usace.army.mil)>  
Subject: [Non-DoD Source] Lake Okeechobee Watershed Project

June 6, 2017

Subject: Lake Okeechobee Watershed Project – Performance Work Statement

THPO #: 0029311

Hello Robin,

Do I still need to take a look at the proposed performance work standard for the LOWP? Thank you.

Respectfully,

Bradley M. Mueller, MA, Compliance Supervisor

STOF-THPO, Compliance Review Section

30290 Josie Billie Hwy, PMB 1004

Clewiston, FL 33440

Office: 863-983-6549 ext 12245

Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com)



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P.O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO  
ATTENTION OF

Planning Division  
Environmental Branch

Mr. Fred Dayhoff, Tribal Representative  
NAGPRA, Section 106  
Miccosukee Tribe of Indians of Florida  
HC 61  
SR 68  
Ochopee, Florida 34141

MAR 12 2018

Re: Lake Okeechobee Watershed Restoration Project, Glades County, Florida

Dear Mr. Dayhoff:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with the proposed Lake Okeechobee Watershed Restoration Project (LOWRP), in Glades and Okeechobee counties, Florida as part of the preparation for an environmental impact statement (EIS). The Corps and South Florida Water Management District (SFWMD) are conducting the LOWRP planning effort to identify opportunities to improve the quantity, timing and distribution of flows into the 730-square-mile Lake Okeechobee and to reduce undesirable flows to the Caloosahatchee and St. Lucie estuaries downstream of the lake. The area of potential effects (APE), where placement of potential features are being considered, covers a large portion of the Lake Okeechobee Watershed north of the lake.

The Corps contracted Southeastern Archaeological Research Inc. (SEARCH) to conduct a cultural resources assessment survey of a portion of the alternatives considered in the EIS that were located on accessible parcels of land owned by SFWMD. SEARCH conducted a Phase I archaeological survey on a 1,800-acre portion of the K05 reservoir (Alternative 1B Shallow) and a limited reconnaissance-level survey within a sample of high probability locations that are located in the Paradise Run Wetland Restoration (WR) area. SEARCH's investigations resulted in the excavation of 1,235 subsurface shovel test excavations and pedestrian survey. As a result of these investigations, one previously recorded prehistoric archaeological site (8GL492) was relocated and four new prehistoric archaeological sites (8GL494-8GL496 and 80B365) were identified. SEARCH's draft report entitled: *Cultural*

*Resource Assessment Survey for the Lake Okeechobee Watershed Restoration Project, Glades County, Florida* documents these investigations and is enclosed with this letter.

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SEARCH excavated 17 shovel tests within the Paradise Run WR area and identified two archaeological sites (8GL496 and 8OB365). A single shovel test excavated at 8GL496 identified a midden deposit with well-preserved shell and bone. As single shovel test at site 8OB365 recovered five undecorated, three St. Johns Plain, and two sand tempered plain sherds. Based on the limited level of work that was completed, there is insufficient information to evaluate their potential significance and integrity. SEARCH completed an architectural assessment of the extension of the L-59 Canal (8GL499) extending across the K05 reservoir. 8GL499 is a drainage canal constructed in 1962. Based its lack of distinctive engineering design and significant historic associations, this linear resource is ineligible for inclusion in the NRHP.

Based on this investigation, the Corps has determined that the Phase I archaeological survey of the 1,800 acre portion of the KO5 (Alternative 1B Shallow) is complete and has identified two potential historic properties (8GL494 and 8GL495). Archaeological surveys and evaluations to identify additional historic properties will be completed during the Pre-Construction, Engineering, and Design (PED) phase of the project. With the exception of these two sites, it is the recommendation that no additional work is necessary within this 1,800 acre portion of KO5. These two sites will be avoided or additional investigations will be completed to evaluate their significance and integrity for listing in the NRHP. Site 8GL492, is potentially eligible for inclusion in the NRHP; however, it is located outside the currently proposed APE and will be avoided. If plans change and this site can no longer be avoided, additional investigations will be completed to evaluate its significance and integrity for listing in the NRHP. The Corps has determined that there is insufficient information to make a determination of eligibility for archaeological sites 8GL496 and 8OB365 for inclusion in the NRHP. Based on the limited nature of the reconnaissance survey of the Paradise Run WR area, the Corps understands that it will be necessary to complete additional surveys to

identify and evaluate historic properties within the Paradise Run WR area. Finally, the Corps has determined that the portion of the L-59 Kissimmee Branch Canal No. 1 (8GL499) is ineligible for inclusion in the NRHP.

Pursuant to Section 106 of the National Historic Preservation Act (16 USC 470) and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Miccosukee Tribe of Indians of Florida, the Corps kindly requests your comments on the Corp's determinations of eligibility for these archaeological sites, and your comments on the draft report. If there are any questions, please contact Mr. Jason Moser by phone at 904-232-3028 or e-mail at [Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil).

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P.O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0019

Planning Division  
Environmental Branch

Dr. Paul Backhouse, THPO  
Seminole Tribe of Florida  
Tribe Historic Preservation Office  
30290 Josie Billie Highway  
PMP 1004  
Clewiston, FL 33440

MAR 17 2018

Re: Lake Okeechobee Watershed Restoration Project, Glades County, Florida

Dear Dr. Backhouse:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with the proposed Lake Okeechobee Watershed Restoration Project (LOWRP), in Glades and Okeechobee counties, Florida as part of the preparation for an environmental impact statement (EIS). The Corps and South Florida Water Management District (SFWMD) are conducting the LOWRP planning effort to identify opportunities to improve the quantity, timing and distribution of flows into the 730-square-mile Lake Okeechobee and to reduce undesirable flows to the Caloosahatchee and St. Lucie estuaries downstream of the lake. The area of potential effects (APE), where placement of potential features are being considered, covers a large portion of the Lake Okeechobee Watershed north of the lake.

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identify and evaluate historic properties within the Paradise Run WR area. Finally, the Corps has determined that the portion of the L-59 Kissimmee Branch Canal No. 1 (8GL499) is ineligible for inclusion in the NRHP.

Pursuant to Section 106 of the National Historic Preservation Act (16 USC 470) and it's implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Seminole Tribe of Florida, the Corps kindly requests your comments on the Corp's determinations of eligibility for these archaeological sites, and your comments on the draft report. If there are any questions, please contact Mr. Jason Moser by phone at 904-232-3028 or e-mail at [Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil).

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P.O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO  
ATTENTION OF

Planning Division  
Environmental Branch

Mr. Theodore Isham  
Historic Preservation Officer  
Seminole Nation of Oklahoma  
PO Box 1498  
Wewoka, Ok 74884

MAR 12 2018

Re: Lake Okeechobee Watershed Restoration Project, Glades County, Florida

Dear Mr. Isham:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with the proposed Lake Okeechobee Watershed Restoration Project (LOWRP), in Glades and Okeechobee counties, Florida as part of the preparation for an environmental impact statement (EIS). The Corps and South Florida Water Management District (SFWMD) are conducting the LOWRP planning effort to identify opportunities to improve the quantity, timing and distribution of flows into the 730-square-mile Lake Okeechobee and to reduce undesirable flows to the Caloosahatchee and St. Lucie estuaries downstream of the lake. The area of potential effects (APE), where placement of potential features are being considered, covers a large portion of the Lake Okeechobee Watershed north of the lake.

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Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P.O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO  
ATTENTION OF

Planning Division  
Environmental Branch

Tim Parsons, Ph.D.  
State Historic Preservation Officer  
Division of Historical Resources  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

MAR 12 2018

Re: Lake Okeechobee Watershed Restoration Project, Glades County, Florida

Dear Dr. Parsons:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with the proposed Lake Okeechobee Watershed Restoration Project (LOWRP), in Glades and Okeechobee counties, Florida as part of the preparation for an environmental impact statement (EIS). The Corps and South Florida Water Management District (SFWMD) are conducting the LOWRP planning effort to identify opportunities to improve the quantity, timing and distribution of flows into the 730-square-mile Lake Okeechobee and to reduce undesirable flows to the Caloosahatchee and St. Lucie estuaries downstream of the lake. The area of potential effects (APE), where placement of potential features are being considered, covers a large portion of the Lake Okeechobee Watershed north of the lake.

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Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P.O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO  
ATTENTION OF

Planning Division  
Environmental Branch

MAR 12 2018

Mr. Terry Clouthier  
Tribal Historic Preservation Officer  
Thlopthlocco Tribal Town  
PO Box 188  
Okemah, Ok 74859

Re: Lake Okeechobee Watershed Restoration Project, Glades County, Florida

Dear Mr. Clouthier:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with the proposed Lake Okeechobee Watershed Restoration Project (LOWRP), in Glades and Okeechobee counties, Florida as part of the preparation for an environmental impact statement (EIS). The Corps and South Florida Water Management District (SFWMD) are conducting the LOWRP planning effort to identify opportunities to improve the quantity, timing and distribution of flows into the 730-square-mile Lake Okeechobee and to reduce undesirable flows to the Caloosahatchee and St. Lucie estuaries downstream of the lake. The area of potential effects (APE), where placement of potential features are being considered, covers a large portion of the Lake Okeechobee Watershed north of the lake.

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Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure



## FLORIDA DEPARTMENT of STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

Dr. Gina Paduano Ralph  
Chief, Environmental Branch, Planning and Policy Division  
Jacksonville District Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, Florida 32207-8175

April 6, 2018

RE: DHR Project File No.: 2018-1350, Received by DHR: March 13, 2018  
*Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Restoration Project, Glades County, Florida*

Dear Dr. Paduano Ralph:

Our office received and reviewed the above referenced report for possible effects on historic properties listed, or eligible for listing, on the *National Register of Historic Places*. The review was conducted in accordance with Section 106 of the *National Historic Preservation Act of 1966*, as amended, and its implementing regulations in *36 CFR Part 800: Protection of Historic Properties*.

Between July and November 2017, Southeastern Archaeological Research, Inc. (SEARCH) conducted the above referenced cultural resource assessment survey (CRAS) of portions of the 2,700-acre Lake Okeechobee Watershed Project (LOWP) area on behalf of the U.S. Army Corps of Engineers (Corps), Jacksonville District. LOWP is comprised of two (2) distinct parcels (Project Area 1 and Project Area 2), and they coincide with approximately 15% of the proposed K05 reservoir, measuring 1,800 acres, and a portion of the Paradise Run Wetland Restoration (WR) area. Only the 1,800-acre portion of the project area within the K05 boundary was subjected to a Phase I survey. The remaining portion of the project area extending beyond the K05 boundary was not investigated and SEARCH clarifies that it is "not considered cleared for archaeological concerns," but notes that the proposed project will have no anticipated effect to this area. At the Corps' request, SEARCH subjected portions of the WR to judgmental reconnaissance level investigations of a small sample of high probability targets.

Between the Phase I survey and reconnaissance efforts SEARCH documented four (4) new archaeological sites, 8GL0494 - 8GL0496 and 8OB0365, one (1) new segment of a linear resource, 8GL0499, and revisited one (1) previously recorded archaeological site, 8GL0492. SEARCH made the following NRHP determinations and recommendations:

- Site 8GL0492, a prehistoric black earth midden with at least one (1) intact subsurface feature, is potentially eligible for NRHP listing and SEARCH recommends preservation or Phase II investigation of the site; however, the site lies beyond the K05 boundary so the current undertaking will not impact the site.
- Site 8GL0494, an undisturbed prehistoric black earth midden, is potentially eligible for NHRP listing, is located within the K05 reservoir, and will be impacted by the current undertaking. As such, SEARCH recommends Phase II investigations. Further, this site is in the vicinity of the Kissimmee Circle Earthworks site (8GL0039) posing the potential to evaluate this as part of a resource group with 8GL0039 and 8GL0495.
- Site 8GL0495, an undisturbed prehistoric black earth midden, is potentially eligible for NHRP listing, is

Division of Historical Resources  
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399  
850.245.6300 • 850.245.6436 (Fax) FLHeritage.com

located within the K05 reservoir, and will be impacted by the current undertaking. As such, SEARCH recommends Phase II investigations. Further, this site is in the vicinity of the Kissimmee Circle Earthworks site (8GL0039) posing the potential to evaluate this as part of a resource group with 8GL0039 and 8GL0494.

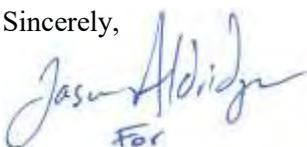
- Site 8GL0496, a prehistoric black earth midden, is potentially eligible for NRHP listing and SEARCH recommends avoidance or Phase I testing to determine vertical and horizontal limits, as well as Phase II investigation for content analysis and evaluation. This site was identified by a single STP in the WR area.
- Site 8OB0365, a prehistoric pottery deposit, has insufficient information to made an NRHP determination at this time and SEARCH recommends avoidance or Phase I testing to determine vertical and horizontal limits and supply data for an NRHP evaluation. This site was identified by a single STP in the WR area.
- Linear resource 8GL0499 is the portion of the L-59 Kissimmee Branch Canal No. 1 that crosses the K05 reservoir. While SEARCH observed that the canal retains its historic integrity, they determined that the portion of 8GL0499 that crosses K05 is ineligible for NRHP listing due to commonality of design and no significant historical associations that meet NRHP evaluation criteria. This recommendation mirrors SEARCH's determination for 8OB0360, a neighboring portion of the canal across the county line, which the SHPO concurred with as ineligible in March 2017.
- With the exception of the Phase II tested recommended for sites 8GL0494 and 8GL0495, SEARCH recommends no additional work for the 1,800 acres of the K05 reservoir surveyed during this effort.
- Finally, SEARCH states that the judgmentally testing high probability targets in the WR area were not an exhaustive list of high probability areas nor did it address alternate probability zones. SEARCH concluded that the results of the limited reconnaissance investigations within the WR area demonstrates the necessity for a systematic Phase I CRAS within that area as well as the above mentioned Phase II testing of archaeological sites in the WR area.

The Corps determined that the Phase I survey of the 1,800-acre portion of the K05 area is complete, and, with the exception of the two sites (8GL0494 and 8GL0495) recommended for Phase II investigations or avoidance, no additional work is necessary in this portion of K05. The Corps states that 8GL0494 and 8GL0495 will be either avoided or Phase II investigations will take place. The Corps also states that 8GL0492 is potentially NRHP-eligible but is located outside the currently proposed APE and will be avoided; if plans change and the site can no longer be avoided, additional investigations will take place at 8GL0492. The Corps determined linear resource 8GL0499 is ineligible for NRHP listing. Finally, the Corps has determined there is insufficient information to make NRHP determinations for 8GL0496 and 8OB0365 and, based on the nature of the reconnaissance survey, additional surveys to identify and evaluate historic properties within the WR area are necessary.

Based on the information provided, our office concurs with the Corps' NRHP eligibility determinations and recommendations. We find the submitted report complete and sufficient in accordance with Chapter 1A-46, *Florida Administrative Code*. Further, our office suggests that if avoidance of 8GL0494 and 8GL0495 is not possible, additional investigations should evaluate possible associations with nearby potentially eligible Kissimmee Circle Earthworks site (8GL0039), and include documentation and evaluation of them as a resource group, if appropriate.

If I can be of any further help, or if you have any questions about this letter, please feel free to contact Lindsay Rothrock at [Lindsay.Rothrock@dos.myflorida.com](mailto:Lindsay.Rothrock@dos.myflorida.com).

Sincerely,



For

Timothy A. Parsons, Ph.D.  
Director, Division of Historical Resources  
and State Historic Preservation Officer

**From:** [Bradley Mueller](#)  
**To:** [Moser, Jason D CIV \(US\)](#)  
**Subject:** [Non-DoD Source] Lake Okeechobee Watershed Project  
**Date:** Wednesday, April 25, 2018 1:09:28 PM  
**Attachments:** [image005.png](#)  
[image006.png](#)

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SEMINOLE TRIBE OF FLORIDA  
TRIBAL HISTORIC PRESERVATION OFFICE  
AH-TAH-THI-KI MUSEUM

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<p>TRIBAL HISTORIC PRESERVATION OFFICE</p> <p>SEMINOLE TRIBE OF FLORIDA AH-TAH-THI-KI MUSEUM</p> <p>30290 JOSIE BILLIE HIGHWAY PMB 1004 CLEWISTON, FL 33440</p> <p>THPO PHONE (863) 983-6549 MUSEUM PHONE: (863) 902-1113 FAX: (863) 902-1117</p> <p>THPO WEBSITE: <a href="http://WWW.STOFTHPO.COM">WWW.STOFTHPO.COM</a> MUSEUM WEBSITE: <a href="http://WWW.AHTAHTHIKI.COM">WWW.AHTAHTHIKI.COM</a></p>			<p><u>TRIBAL OFFICERS</u></p> <p>MARCELLUS W. OSCEOLA JR. CHAIRMAN</p> <p>MITCHELL CYPRESS VICE CHAIRMAN</p> <p>LAVONNE ROSE SECRETARY</p> <p>PETER A. HAHN TREASURER</p>
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April 24, 2018

Subject: TCNS #148966 (9FLX000404A/JA90XCDRDA, Daytona Beach, Volusia County, FL) – Project Assessment (Tribal Research and Section 106 Evaluation).

THPO Compliance Tracking Number: 0029311

Good Afternoon Jason,

I hope everything is going well for you? Would be able to check your records and see if the USACE sent us a copy of the final report of the the cultural resource investigations that were performed for K-05 footprint or any other areas associated with this project? For some reason I cant find anything on this end, but I am pretty sure that Robin had sent us the report(s). I realize that only a portion of the K-05 was examined, I am just trying to update my files and start to look ahead at what remains to be done (depending on which alternative is finally selected). Thanks for any help you can provide!

Respectfully,



Bradley M. Mueller, MA, Compliance Supervisor  
STOF-THPO, Compliance Review Section  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440  
Office: 863-983-6549 ext 12245  
Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com)

## Moser, Jason D CIV (US)

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**From:** Bradley Mueller <bradleymueller@semtribe.com>  
**Sent:** Thursday, May 17, 2018 11:55 AM  
**To:** Moser, Jason D CIV (US)  
**Cc:** Moreno, Meredith A CIV USARMY CESAJ (US)  
**Subject:** [Non-DoD Source] LOWP CRAS Report

### SEMINOLE TRIBE OF FLORIDA TRIBAL HISTORIC PRESERVATION OFFICE AH-TAH-THI-KI MUSEUM

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#### TRIBAL OFFICE

MARCELLUS W. OSC  
CHAIRMAN

MITCHELL CYPRI  
VICE CHAIRMAN

LAVONNE RO  
SECRETARY

PETER A. HARRIS  
TREASURER

TRIBAL HISTORIC  
PRESERVATION OFFICE  
SEMINOLE TRIBE OF FLORIDA  
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THPO WEBSITE: WWW.STOPTHPO.COM  
MUSEUM WEBSITE: WWW.AHTANTHIKI.COM



May 17, 2018

**Subject:** Lake Okeechobee Watershed Project Cultural Resource Assessment Survey Report  
**THPO Compliance Tracking Number:** 0029311

Jason,

Thank you for contacting the Seminole Tribe of Florida – Tribal Historic Preservation Office (STOF-THPO) regarding the Lake Okeechobee Watershed Project Cultural Resource Assessment Survey report. The proposed undertaking does fall within the STOF Area of Interest. We have reviewed the report you provided and completed our assessment. We find the field methodology employed by the consultant to be consistent with our previous agreements with the USACE. In addition, we concur with the consultants recommendations regarding the sufficiency of their survey and the treatment of sites that were identified, specifically:

1. The "K-05 Reservoir APE" has been adequately surveyed at the Phase I level. This applies to the APE as it was configured at the time of the survey not as it may appear in its final form. Also, the current APE (surveyed area) only represents a small portion of the overall K-05 reservoir.
2. 8GL492 should be avoided or a Phase II assessment conducted

3. 8GL494 should be avoided or a Phase II assessment conducted
4. 8GL495 should be avoided or a Phase II assessment conducted
5. 8GL496 should be avoided or a Phase I investigation and Phase II assessment conducted
6. 8GL499 requires no additional work
7. 8OB365 should be avoided or a Phase I investigation conducted

As I am sure you are aware there is a great deal of cultural resource investigative work that remains to be done once APE's are finally determined. The THPO is prepared to continue its consultation with the USACE on this project as needed. Thank you and feel free to contact us with any questions or concerns.

Respectfully,



Bradley M. Mueller, MA, Compliance Supervisor  
STOF-THPO, Compliance Review Section  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440

Office: 863-983-6549 ext 12245

Fax: 863-902-1117

Email: [bradleymueller@semtribe.com](mailto:bradleymueller@semtribe.com)

Web: Blockedwww.stofthpo.com

# CONVERSATION RECORD

TYPE

VISIT

CONFERENCE

TELEPHONE

INCOMING  
 OUTGOING

Location of Visit / Conference:

NAME OF PERSON(S) CONTACTED OR IN CONTACT WITH YOU

ORGANIZATION (Office, dept., bureau,

TELEPHONE NO.

SUBJECT

SUMMARY

ACTION REQUIRED

NAME OF PERSON DOCUMENTING CONVERSATION

SIGNATURE

DATE

ACTION TAKEN

SIGNATURE

TITLE

DATE

**From:** [Theodore Isham](#)  
**To:** [Moser, Jason D CIV \(US\)](#)  
**Subject:** [Non-DoD Source] RE: Lake Okeechobee Watershed Restoration Project  
**Date:** Wednesday, April 25, 2018 2:51:47 PM

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This Opinion is being provided by Seminole Nation of Oklahoma's Cultural Advisor, pursuant to authority vested by the Seminole Nation of Oklahoma General Council. The Seminole Nation of Oklahoma is an independently Federally-Recognized Indian Nation headquartered in Wewoka, OK.

In keeping with the National Environmental Policy Act (NEPA), and Section 106 of the National Historic Preservation Act (NHPA), 36 CFR Part 800, this letter is to acknowledge that the Seminole Nation of Oklahoma has received notice of the proposed project at the above mentioned location.

The Seminole Nation of Oklahoma concurs with the recommendation of 'no adverse effect'. Therefore, we have no other comment on the project as proposed.

We do request that if cultural or archeological resource materials are encountered that all activity cease and the Seminole Nation of Oklahoma and other appropriate agencies be contacted immediately.

Furthermore, due to the historic presence of our people in the project area, inadvertent discoveries of human remains and related NAGPRA items may occur, even in areas of existing or prior development. Should this occur we request all work cease and the Seminole Nation of Oklahoma and other appropriate agencies be immediately notified.

Theodore Isham  
Seminole Nation of Oklahoma  
Historic Preservation Officer  
PO Box 1498  
Wewoka, Ok 74884  
Phone: 405-234-5218  
e-mail: [isham.t@sno-nsn.gov](mailto:isham.t@sno-nsn.gov)

-----Original Message-----

From: Moser, Jason D CIV (US) [<mailto:Jason.D.Moser@usace.army.mil>]  
Sent: Wednesday, April 25, 2018 1:46 PM  
To: Theodore Isham <[isham.t@sno-nsn.gov](mailto:isham.t@sno-nsn.gov)>  
Subject: Re: Lake Okeechobee Watershed Restoration Project

Mr. Isham:

I am writing to you to see if you have any formal comments on the determinations of eligibility or technical comments on the Draft report for the Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Restoration Project, Glades County, Florida. The report was mailed out around March 12, 2018.

Sincerely,

Jason D. Moser, PhD, RPA  
Archaeologist  
Planning Division, Environmental Branch  
Jacksonville District, US Army Corps of Engineers  
Office: 904-232-3028

**From:** [Bradley Mueller](#)  
**To:** [Ralph, Gina P CIV USARMY CESAJ \(US\)](#)  
**Cc:** [Moser, Jason D CIV \(US\)](#)  
**Subject:** [Non-DoD Source] Lake Okeechobee Watershed Restoration Project, Glades County, Florida, SEARCH Cultural Resource Survey  
**Date:** Tuesday, July 10, 2018 11:08:17 AM  
**Attachments:** [image001.png](#)

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SEMINOLE TRIBE OF FLORIDA  
TRIBAL HISTORIC PRESERVATION OFFICE  
AH-TAH-THI-KI MUSEUM

<p>TRIBAL HISTORIC PRESERVATION OFFICE</p> <p>SEMINOLE TRIBE OF FLORIDA AH-TAH-THI-KI MUSEUM</p> <p>30290 JOSIE BILLIE HIGHWAY PMB 1004 CLEWISTON, FL 33440</p> <p>THPO PHONE (863) 983-6549 MUSEUM PHONE: (863) 902-1113 FAX: (863) 902-1117</p> <p>THPO WEBSITE: <a href="http://WWW.STOFTHPO.COM">WWW.STOFTHPO.COM</a> MUSEUM WEBSITE: <a href="http://WWW.AHTAHTHIKI.COM">WWW.AHTAHTHIKI.COM</a></p>			<p>TRIBAL OFFICERS</p> <p>MARCELLUS W. OSCEOLA JR. CHAIRMAN</p> <p>MITCHELL CYPRESS VICE CHAIRMAN</p> <p>LAVONNE ROSE SECRETARY</p> <p>PETER A. HAHN TREASURER</p>
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July 10, 2018

Ms. Gina Paduano Ralph, Ph.D.  
Environmental Branch Chief, Planning and Policy Division  
Department of the Army  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, FL 32232-0019

Subject: Lake Okeechobee Watershed Restoration Project, Glades County, Florida, SEARCH Cultural Resource Survey  
THPO Compliance Tracking Number: 0029311-99

Dear Ms. Ralph,

Thank you for contacting the Seminole Tribe of Florida – Tribal Historic Preservation Office (STOF-THPO) regarding the Lake Okeechobee Watershed Restoration Project, Glades County, Florida, SEARCH Cultural Resource Survey. The proposed undertaking does fall within the STOF Area of Interest. We have reviewed the documents you provided and completed our project assessment pursuant to Section 106 of the National Historic Preservation Act as amended 2014, and its implementing authority, 36 CFR 800 in order to determine if the undertaking would affect any areas important to the Tribe. We concur with the USACE's assessment of SEARCH's report and with their recommendations regarding future field investigations. Please continue to consult with us on this very important sensitive matter. Thank you and feel free to contact us with any questions or concerns.

Respectfully,

Bradley M. Mueller, MA, Compliance Supervisor  
STOF-THPO, Compliance Review Section  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440

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Email: [bradleymueller@semtibe.com](mailto:bradleymueller@semtibe.com)  
Web: [Blockedwww.stofthpo.com](http://Blockedwww.stofthpo.com)

April 26, 2018

THPO File Number: 2018-104

Gina Paduano Ralph  
Chief, Environmental Branch  
Department of the Army  
Jacksonville District Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, Florida 32207

**RE: Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Restoration Project, Glades County, Florida**

Dear Mrs. Paduano Ralph,

Thank you for contacting the Thlopthlocco Tribal Town Tribal Historic Preservation Office (THPO) regarding the submerged cultural resource assessment survey for the Lake Okeechobee watershed restoration project in Glades County, Florida. Our office has reviewed the documents provided and offers the following comments.

Why was there only a sample of the high probability areas surveyed within the Paradise Run Wetland Reservoir? Given that the corps only surveys their jurisdictional boundaries due to the requirements of 33CFR325 Appendix C which do not meet the actual requirements of 36CFR800, our office does not agree that a sample survey of only high probability areas would represent adequate survey coverage. What percentage of the K05 reservoir was actually surveyed? The letter states that an 1800 acre portion was surveyed and why was the survey limited to only one alternative. How was the 1800 acres chosen to be surveyed? Will additional studies be conducted on the other alternatives? What impacts will occur to the other areas that were not surveyed and what potential for impacts to cultural sites exist in the non-surveyed portions or other alternatives? The THPO does not agree that limiting survey to only one alternative is an effective means of determining the potential for impacts across the entire reservoir unless impacts are going to be completely limited to that one alternative which is likely not the case when discussing impacts at a reservoir.

The THPO concurs with the determinations that sites 8GL492, 8GL494 and 8GL495 are potentially eligible for the National Register of Historic Places (NRHP). The THPO agrees that there is insufficient information available to base a determination of eligibility for sites 8GL496 and 8OB365 and concurs that additional testing is required to determine their potential

eligibility to the NRHP. The THPO concurs with the determination that site 8GL499 is not eligible for the NRHP.

Should any human remains or cultural resources be inadvertently discovered during any work, please cease all activities and contact our THPO at [thpo@tttown.org](mailto:thpo@tttown.org) immediately.

Please feel free to contact the THPO at [thpo@tttown.org](mailto:thpo@tttown.org) if you have any questions.

Please refer to THPO file number 2018 -104 in all correspondence for this undertaking.

Sincerely,

Terry Clouthier  
Thlopthlocco Tribal Town  
Tribal Historic Preservation Officer

SUBJECT: Meeting Minutes – Lake Okeechobee Watershed Restoration Project Government to Government Consultation with the Seminole Tribe of Florida, 30 May, 9:30 – 10:30

ATTENDEES: Bradley Mueller (STOF), Bernard Howard (STOF), Jason Moser (USACE), and Meredith Moreno (USACE)

PURPOSE: To provide the Seminole Tribe of Florida (STOF) with an update on the latest Lake Okeechobee Watershed Restoration Project (LOWRP) cultural resources information.

[USACE] The last time the USACE and STOF spoke the TSP had not been conceptualized but the STOF had concerns of the placement of the features in their relationship to the road.

[STOF] Yes, when the Lt. Colonel and the Chairman met, the STOF brought up concerns about the reservoir crossing the road.

[USACE] The current plan will consist of a Wetland Attenuation Feature (WAF) that does not cross the road.

[STOF] Will the WAF incorporate the reservoir?

[USACE] The WAF is not a reservoir, it only holds 4 feet of water. There have been minimal surveys within the area of potential effects, but there are some identified sites. The Mulberry Mound site is within the APE; however, the other two mounds are located outside of the APE. The black circles on the map represent Aquifer Storage and Recovery (ASR) well clusters with a buffer. The buffer is 12000 feet across and there is a large degree of uncertainty on the locations. The ASR wells will still need to be prospected, that is a test well will need to be dug to make sure the location is suitable. The WAF will be maintained by pumping water in and out of the ASR wells. There will be approximately 10 to 35 ASR wells within the WAF.

The shape of the WAF is a result of the meeting with Lt. Colonel and the Chairman. It was redrawn to be 0.5 miles or more away from Brighton Reservation.

[STOF] The Tribe was specifically concerned with the northern portion of the WAF being so close to Brighton.

[USACE] The orange line on the map represents the interior berm that will be placed around the WAF. The blue line represents the maximum extent of all the features associated with the WAF (i.e. the seepage canal). As of now, the USACE anticipates that staging and laydown areas will be located within the boundary of the WAF. ASR wells will be located adjacent to existing canals. Construction disturbance for the ASR wells will be limited to 2 to 3 acres per well. Wells can be moved around within the buffer to avoid impacts to cultural resources. There will also be ASR clusters associated with the wetland restoration features. There have been no previous investigations or recorded sites within the Kissimmee Center wetland restoration feature. Other ASR wells will be located along the Lake. Paradise Run and Moore Have already have constructed ASRs.

[STOF] The STOF will need to see shapefiles/maps of all parts of the undertaking, including the ASR wells. When is the EIS expected to be released?

[USACE] Tim Gysan and Lisa Aley have been trying to coordinate how much the STOF wants to be a part of the review. Typically the STOF would review the document when it is released for draft; however, since the STOF is a cooperating agency, they may get the opportunity to review earlier. The USACE will follow up on this.

There have been sites identified in the Paradise Run wetland area. Two sites with burial resources (8GL494 and 8GL495) are located within the WAF footprint. One of the sites is located between the two boundary lines right now. These are all things we can look at in PED and try to avoid affects to historic properties.

[STOF] Robin was working on a predictive model of the survey areas. The STOF would like to revisit this model when there are more surveys.

[USACE] Once the project has been congressionally approved and money is allocated the USACE will consult on the survey methodology on the remainder of the project area pursuant to the Burial Resources Agreement, just like our projects that are currently in PED (i.e. Broward County Water Preserve Area).

[STOF] When does the USACE think more surveys are likely?

[USACE] The USACE imagines it would be like the Central Everglades Planning Project (CEPP), no sooner than five years. In the site write up that was provided, there are two sites with burial resources. They are lacking information (only four shovel tests were excavated at the Mulberry Mound site), so the USACE would also coordinate the survey of these sites with the STOF as well.

[STOF] It appears as if cultural resources is in a holding pattern; however, the USACE still needs to go the community to present the tentatively selected plan (TSP). The Chairman and the Council have not gone back to the community to present anything else.

[USACE] This is likely to occur in summer. The USACE will follow up with the project manager on this issue.

[STOF] The STOF appreciates the update on this project. Please keep us informed on the final footprint.

#### Due Outs:

- USACE to find out when the STOF will review the EIS.
- USACE to provide STOF with shapefiles of survey areas.
- Inform PDT of the STOF desire to have another community meeting.

POC:

Jason Moser  
Archaeologist  
Planning Division, Environmental Branch  
Jacksonville District, US Army Corps of Engineers  
Office: 904-232-3028



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-0019

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

JUN 25 2018

Mr. Fred Dayhoff, Tribal Representative  
NAGPRA, Section 106  
Miccosukee Tribe of Indians of Florida  
HC 61 SR 68  
Ochopee, Florida 34141

Re: Lake Okeechobee Watershed Restoration Project (LOWRP)

Dear Mr. Dayhoff:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR)/Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

Within the forthcoming PIR/EIS, Alternative 1BW is identified as the Tentatively Selected Plan (TSP). Proposed TSP project features include a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage that will serve to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features, and a downstream pump station.

A total of 80 ASR wells are proposed in clusters in various locations throughout the watershed. The purpose of ASR wells is to provide below-ground storage of water within the aquifer that is recoverable during dry periods to rehydrate habitat and ensure that wetland conditions are maintained within the WAF footprint. The proposed location of the well clusters have been tentatively defined; however, further refinement and location siting will be required during the preconstruction engineering and design (PED) phase of the project. Preliminarily, there are three well clusters (25 wells) co-located with the WAF and the remaining 55 ASR wells are located throughout the watershed.

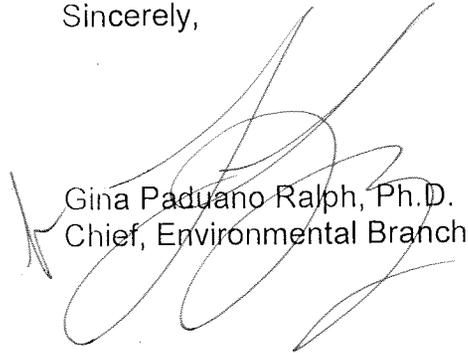
The wetland restoration portion of the APE includes the Paradise Run and Kissimmee River Center features (Figure 2). The Paradise Run area is approximately 4,100 acres and contains the historic Kissimmee River channel and floodplain. The area is located downstream of S-65E on the west bank of the C-38 Canal, between the C-41A canal and the Buckhead Ridge community. The Kissimmee River Center area is approximately 1,200 acres and is located on the west bank of the C-38 Canal about halfway between S-65D and S-65E. The purpose of the wetland restoration areas are to restore natural flow to the river and hydroperiod to the floodplain wetlands. Restoration activities will include the excavation of new river channel and construction of weirs; however, the location of project features will be refined during PED.

Due to limited access of privately-owned lands and budget constraints during the PIR phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and Phase I cultural resources surveys on publicly-owned lands within the APE. The results of this investigation is documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and coordinated with your office by letter dated March 12, 2018. The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to supplementary Phase I cultural resources surveys during PED.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (36 CFR § 800.4[b][2]), the Corps is employing a phased process to identify and evaluate historic properties and assess effects. This approach is also documented in the Corps' EIS. Once the project has been authorized by Congress and the appropriate funding obligated, each suite of features will be subject to separate consultation and consideration of effects during PED as the APE may be subject to change based on final designs or modifications of project features. Supplementary cultural resources assessments will be conducted in areas that have not been previously surveyed. During PED and prior to construction, these surveys and a final determination of effects for any historic properties within the APE will be coordinated with your office. Discovery of historic properties may also lead to the development of avoidance, minimization, and/or mitigation plans in consultation with your office. As required under the NHPA, further Section 106 consultation is required and will be completed during the PED phase, once a refined APE has been developed. The LOWRP is currently in compliance with the procedural requirements of the NHPA and will remain in compliance with the NHPA pre- and post-construction.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Miccosukee Tribe of Indians of Florida, the Corps kindly requests continued consultation on this project. Please send any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or e-mail at [Jason.d.moser@usace.army.mil](mailto:Jason.d.moser@usace.army.mil)

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

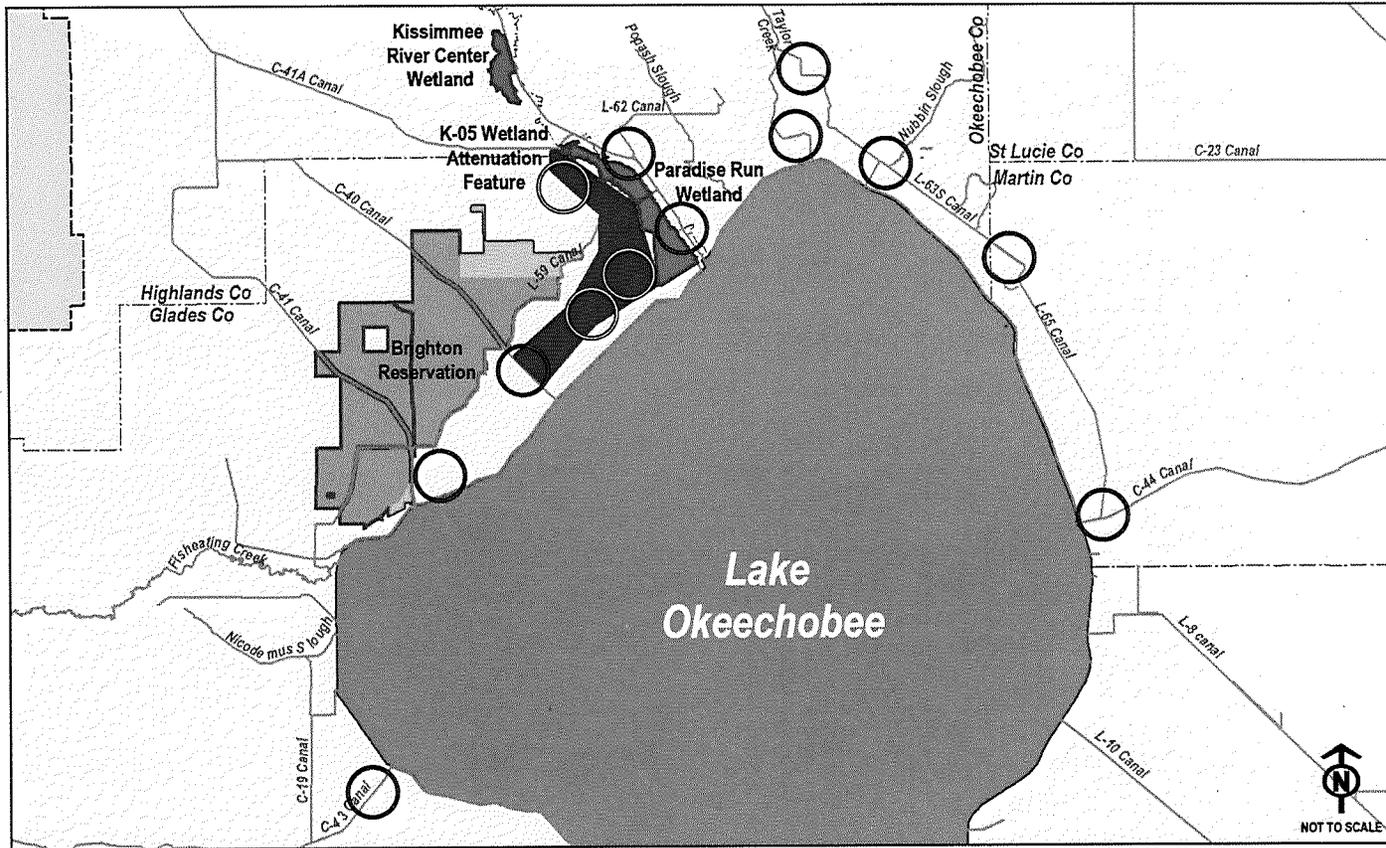


Figure 1. General location of the TSP features.



**Legend**

-  Wetland Attenuation Feature
-  ASR Well Cluster Buffered
-  Wetland Restoration Areas

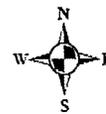
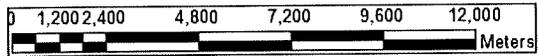


Figure 2. Detail of the TSP showing the WAF, wetland restoration areas, and local ASR well clusters.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-0019

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

JUN 25 2018

Mr. Theodore Isham  
Historic Preservation Officer  
Seminole Nation of Oklahoma  
PO Box 1498  
Wewoka, Ok 74884

Re: Lake Okeechobee Watershed Restoration Project (LOWRP)

Dear Mr. Isham:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR)/Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

Within the forthcoming PIR/EIS, Alternative 1BW is identified as the Tentatively Selected Plan (TSP). Proposed TSP project features include a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage that will serve to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features, and a downstream pump station.

A total of 80 ASR wells are proposed in clusters in various locations throughout the watershed. The purpose of ASR wells is to provide below-ground storage of water within the aquifer that is recoverable during dry periods to rehydrate habitat and ensure that wetland conditions are maintained within the WAF footprint. The proposed location of the well clusters have been tentatively defined; however, further refinement and location siting will be required during the preconstruction engineering and design (PED) phase of the project. Preliminarily, there are three well clusters (25 wells) co-located with the WAF and the remaining 55 ASR wells are located throughout the watershed.

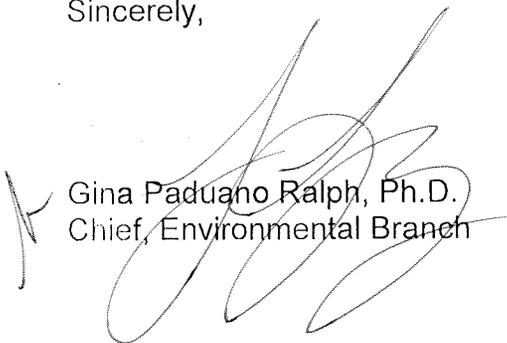
The wetland restoration portion of the APE includes the Paradise Run and Kissimmee River Center features (Figure 2). The Paradise Run area is approximately 4,100 acres and contains the historic Kissimmee River channel and floodplain. The area is located downstream of S-65E on the west bank of the C-38 Canal, between the C-41A canal and the Buckhead Ridge community. The Kissimmee River Center area is approximately 1,200 acres and is located on the west bank of the C-38 Canal about halfway between S-65D and S-65E. The purpose of the wetland restoration areas are to restore natural flow to the river and hydroperiod to the floodplain wetlands. Restoration activities will include the excavation of new river channel and construction of weirs; however, the location of project features will be refined during PED.

Due to limited access of privately-owned lands and budget constraints during the PIR phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and Phase I cultural resources surveys on publicly-owned lands within the APE. The results of this investigation is documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and coordinated with your office by letter dated March 12, 2018. The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to supplementary Phase I cultural resources surveys during PED.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (36 CFR § 800.4[b][2]), the Corps is employing a phased process to identify and evaluate historic properties and assess effects. This approach is also documented in the Corps' EIS. Once the project has been authorized by Congress and the appropriate funding obligated, each suite of features will be subject to separate consultation and consideration of effects during PED as the APE may be subject to change based on final designs or modifications of project features. Supplementary cultural resources assessments will be conducted in areas that have not been previously surveyed. During PED and prior to construction, these surveys and a final determination of effects for any historic properties within the APE will be coordinated with your office. Discovery of historic properties may also lead to the development of avoidance, minimization, and/or mitigation plans in consultation with your office. As required under the NHPA, further Section 106 consultation is required and will be completed during the PED phase, once a refined APE has been developed. The LOWRP is currently in compliance with the procedural requirements of the NHPA and will remain in compliance with the NHPA pre- and post-construction.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Seminole Nation of Oklahoma, the Corps kindly requests continued consultation on this project. Please send any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or e-mail at [Jason.d.moser@usace.army.mil](mailto:Jason.d.moser@usace.army.mil)

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

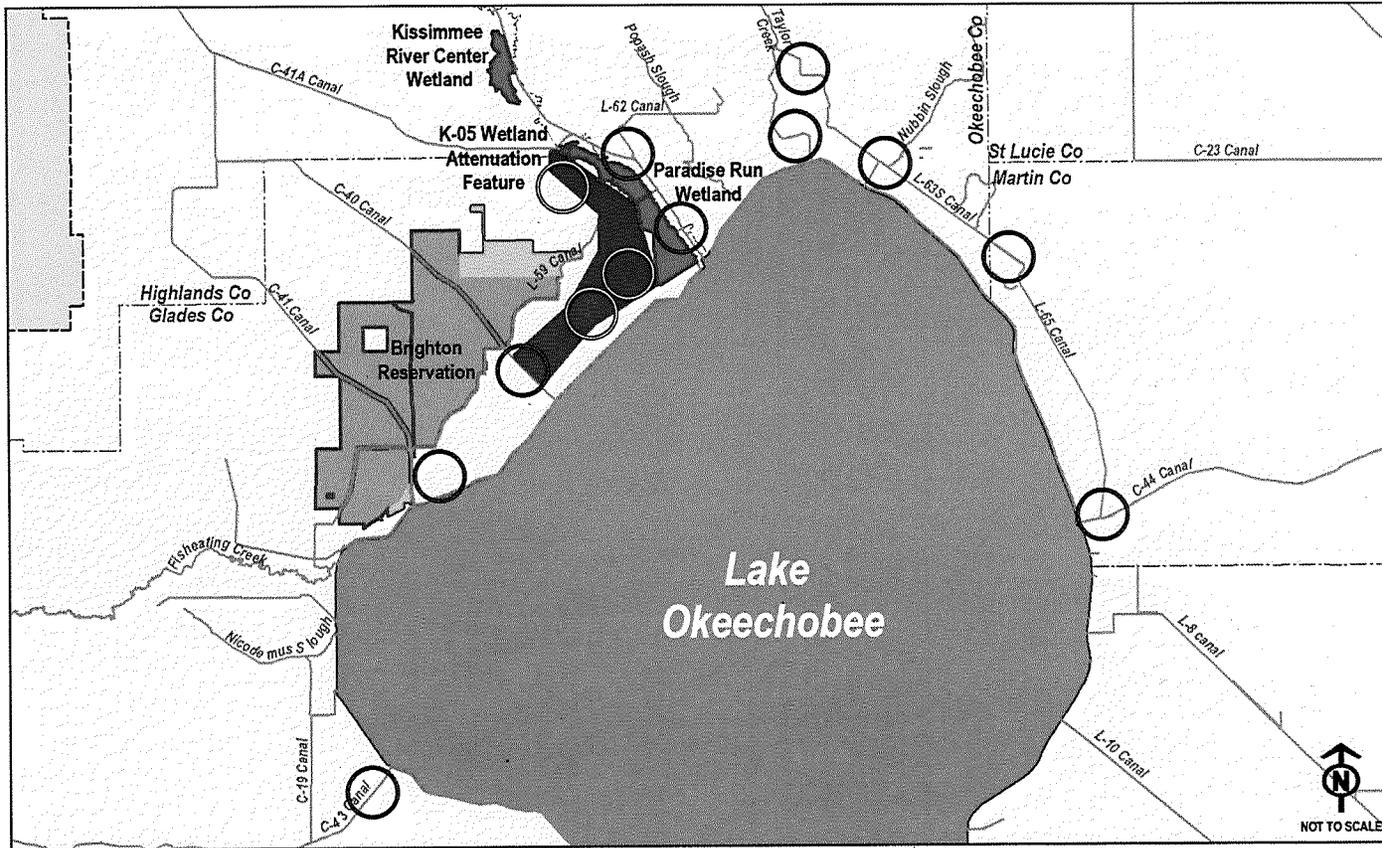


Figure 1. General location of the TSP features.



**Legend**

-  Wetland Attenuation Feature
-  ASR Well Cluster Buffered
-  Wetland Restoration Areas

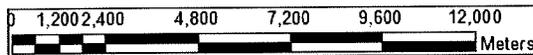


Figure 2. Detail of the TSP showing the WAF, wetland restoration areas, and local ASR well clusters.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-0019

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

JUN 25 2018

Tim Parsons, Ph.D. SHPO  
Division of Historical Resources  
State Historic Preservation Officer  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Re: Lake Okeechobee Watershed Restoration Project (LOWRP)

Dear Dr. Parsons:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR)/Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

Within the forthcoming PIR/EIS, Alternative 1BW is identified as the Tentatively Selected Plan (TSP). Proposed TSP project features include a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage that will serve to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features, and a downstream pump station.

A total of 80 ASR wells are proposed in clusters in various locations throughout the watershed. The purpose of ASR wells is to provide below-ground storage of water within the aquifer that is recoverable during dry periods to rehydrate habitat and ensure that wetland conditions are maintained within the WAF footprint. The proposed location of the well clusters have been tentatively defined; however, further refinement and location siting will be required during the preconstruction engineering and design (PED) phase of the project. Preliminarily, there are three well clusters (25 wells) co-located with the WAF and the remaining 55 ASR wells are located throughout the watershed.

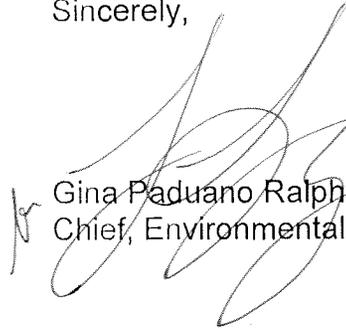
The wetland restoration portion of the APE includes the Paradise Run and Kissimmee River Center features (Figure 2). The Paradise Run area is approximately 4,100 acres and contains the historic Kissimmee River channel and floodplain. The area is located downstream of S-65E on the west bank of the C-38 Canal, between the C-41A canal and the Buckhead Ridge community. The Kissimmee River Center area is approximately 1,200 acres and is located on the west bank of the C-38 Canal about halfway between S-65D and S-65E. The purpose of the wetland restoration areas are to restore natural flow to the river and hydroperiod to the floodplain wetlands. Restoration activities will include the excavation of new river channel and construction of weirs; however, the location of project features will be refined during PED.

Due to limited access of privately-owned lands and budget constraints during the PIR phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and Phase I cultural resources surveys on publicly-owned lands within the APE. The results of this investigation is documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and coordinated with your office (DHR Project File No: 2018-1350). The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to supplementary Phase I cultural resources surveys during PED.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (36 CFR § 800.4[b][2]), the Corps is employing a phased process to identify and evaluate historic properties and assess effects. This approach is also documented in the Corps' EIS. Once the project has been authorized by Congress and the appropriate funding obligated, each suite of features will be subject to separate consultation and consideration of effects during PED as the APE may be subject to change based on final designs or modifications of project features. Supplementary cultural resources assessments will be conducted in areas that have not been previously surveyed. During PED and prior to construction, these surveys and a final determination of effects for any historic properties within the APE will be coordinated with your office. Discovery of historic properties may also lead to the development of avoidance, minimization, and/or mitigation plans in consultation with your office. As required under the NHPA, further Section 106 consultation is required and will be completed during the PED phase, once a refined APE has been developed. The LOWRP is currently in compliance with the procedural requirements of the NHPA and will remain in compliance with the NHPA pre- and post-construction.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800), the Corps kindly requests continued consultation on this project. Please send any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or e-mail at [Jason.d.moser@usace.army.mil](mailto:Jason.d.moser@usace.army.mil)

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

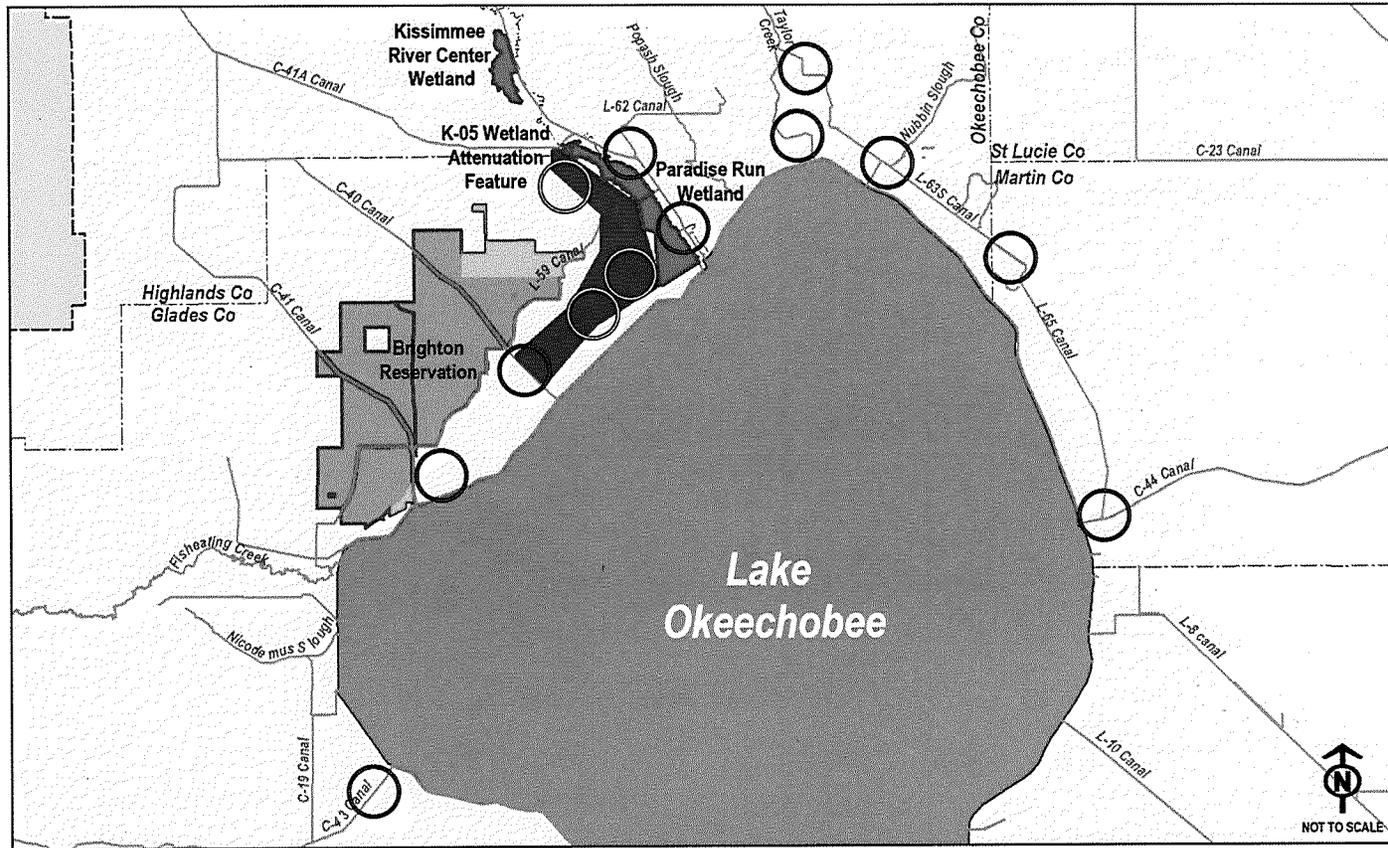


Figure 1. General location of the TSP features.





DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-0019

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

JUN 25 2018

Dr. Paul Backhouse, THPO  
Seminole Tribe of Florida  
Tribal Historic Preservation Office  
30290 Josie Billie Highway  
PMP 1004  
Clewiston, FL 33440

Re: Lake Okeechobee Watershed Restoration Project (LOWRP)

Dear Dr. Backhouse:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR)/Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

Within the forthcoming PIR/EIS, Alternative 1BW is identified as the Tentatively Selected Plan (TSP). Proposed TSP project features include a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage that will serve to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features, and a downstream pump station.

A total of 80 ASR wells are proposed in clusters in various locations throughout the watershed. The purpose of ASR wells is to provide below-ground storage of water within the aquifer that is recoverable during dry periods to rehydrate habitat and ensure that wetland conditions are maintained within the WAF footprint. The proposed location of the well clusters have been tentatively defined; however, further refinement and location siting will be required during the preconstruction engineering and design (PED) phase of the project. Preliminarily, there are three well clusters (25 wells) co-located with the WAF and the remaining 55 ASR wells are located throughout the watershed.

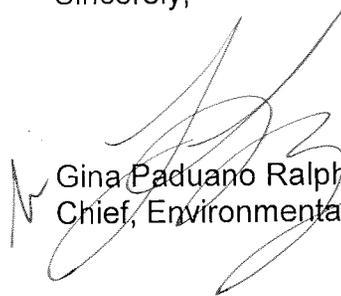
The wetland restoration portion of the APE includes the Paradise Run and Kissimmee River Center features (Figure 2). The Paradise Run area is approximately 4,100 acres and contains the historic Kissimmee River channel and floodplain. The area is located downstream of S-65E on the west bank of the C-38 Canal, between the C-41A canal and the Buckhead Ridge community. The Kissimmee River Center area is approximately 1,200 acres and is located on the west bank of the C-38 Canal about halfway between S-65D and S-65E. The purpose of the wetland restoration areas are to restore natural flow to the river and hydroperiod to the floodplain wetlands. Restoration activities will include the excavation of new river channel and construction of weirs; however, the location of project features will be refined during PED.

Due to limited access of privately-owned lands and budget constraints during the PIR phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and Phase I cultural resources surveys on publicly-owned lands within the APE. The results of this investigation is documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and coordinated with your office by letter dated March 12, 2018 (THPO Compliance Tracking # 0029311). The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to supplementary Phase I cultural resources surveys during PED.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (36 CFR § 800.4[b][2]), the Corps is employing a phased process to identify and evaluate historic properties and assess effects. This approach is also documented in the Corps' EIS. Once the project has been authorized by Congress and the appropriate funding obligated, each suite of features will be subject to separate consultation and consideration of effects during PED as the APE may be subject to change based on final designs or modifications of project features. Supplementary cultural resources assessments will be conducted in areas that have not been previously surveyed. During PED and prior to construction, these surveys and a final determination of effects for any historic properties within the APE will be coordinated with your office. Discovery of historic properties may also lead to the development of avoidance, minimization, and/or mitigation plans in consultation with your office. As required under the NHPA, further Section 106 consultation is required and will be completed during the PED phase, once a refined APE has been developed. The LOWRP is currently in compliance with the procedural requirements of the NHPA and will remain in compliance with the NHPA pre- and post-construction.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Seminole Tribe of Florida, the Corps kindly requests continued consultation on this project. Please send any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or e-mail at Jason.d.moser@usace.army.mil

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

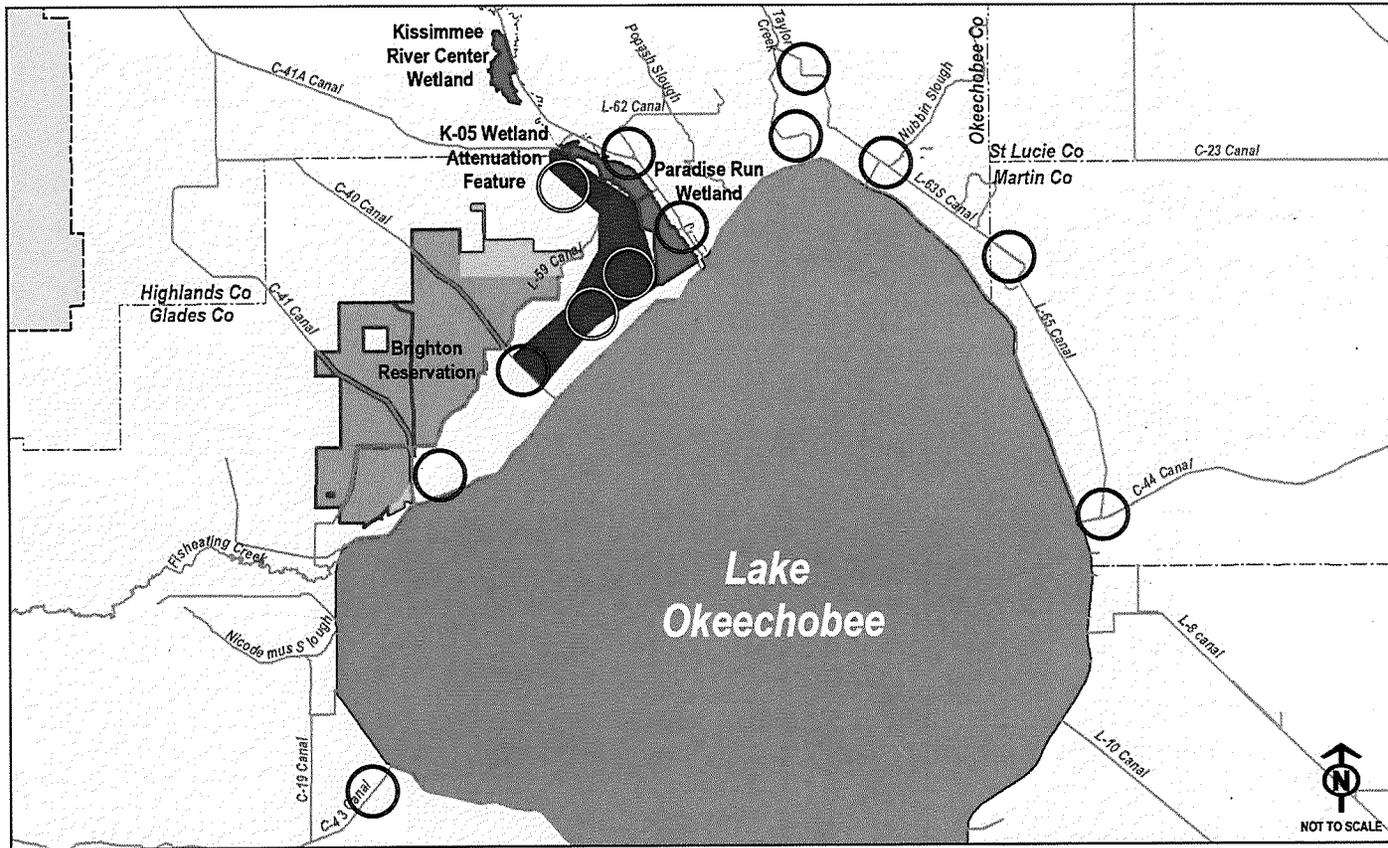
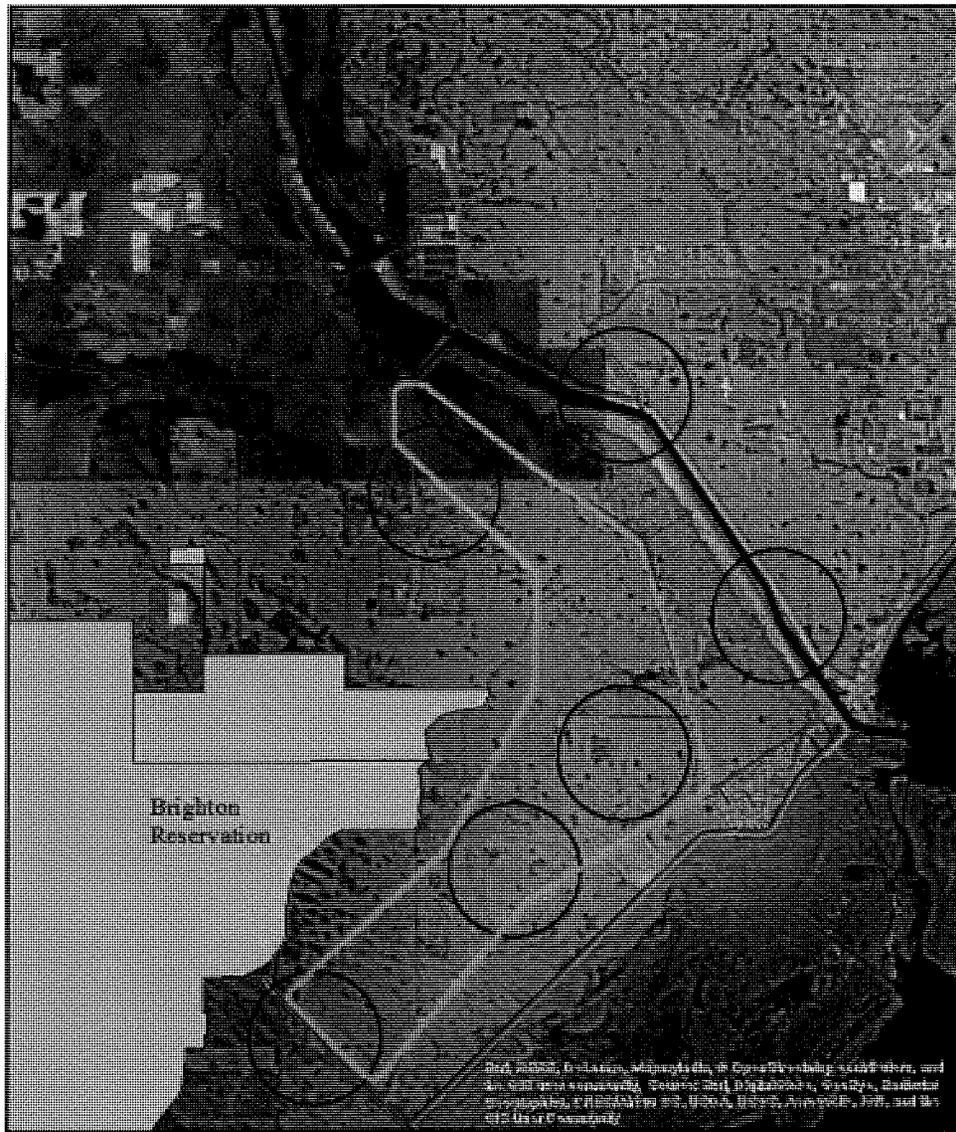


Figure 1. General location of the TSP features.



**Legend**

-  Wetland Attenuation Feature
-  ASR Well Cluster Buffered
-  Wetland Restoration Areas

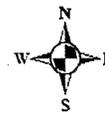
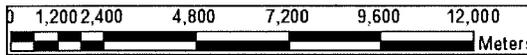


Figure 2. Detail of the TSP showing the WAF, wetland restoration areas, and local ASR well clusters.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-0019

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

JUN 25 2018

Mr. Terry Clouthier  
Tribal Historic Preservation Officer  
Thlopthlocco Tribal Town  
PO Box 188  
Okemah, Ok 74859

Re: Lake Okeechobee Watershed Restoration Project (LOWRP) (THPO file # 2018-104).

Dear Mr. Clouthier:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR)/Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP. The Corps appreciates the comments that you provided in a letter dated April 26, 2018 on the LOWRP, Glades and Okeechobee Counties, Florida (THPO file # 2018-104) and hopes that this letter will provide answers to your questions.

The LOWRP project is a Corps Civil Works planning project wherein the feasibility of a number of project alternatives are assessed and a Tentatively Selected Plan (TSP) is identified. The analysis of the TSP is then presented to Congress for authorization and funding consideration. Within the forthcoming PIR/EIS, Alternative 1BW is identified as the TSP. Proposed TSP project features include a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF has replaced the reservoir feature which was previously planned. The WAF is a flow-through wetland that will primarily be used for shallow surface water storage that will serve to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features, and a downstream pump station.

A total of 80 Aquifer Storage Recovery (ASR) wells are proposed in clusters in various locations throughout the watershed. The purpose of ASR wells is to provide below-ground storage of water within the aquifer that is recoverable during dry periods to rehydrate habitat and ensure that wetland conditions are maintained within the WAF footprint.

The proposed location of the well clusters have been tentatively defined; however, further refinement and location siting will be required during the preconstruction engineering and design (PED) phase of the project. Preliminarily, there are three well clusters (25 wells) co-located with the WAF and the remaining 55 ASR wells are located throughout the watershed.

The wetland restoration portion of the APE includes the Paradise Run and Kissimmee River Center features (Figure 2). The Paradise Run area is approximately 4,100 acres and contains the historic Kissimmee River channel and floodplain. The area is located downstream of S-65E on the west bank of the C-38 Canal, between the C-41A canal and the Buckhead Ridge community. The Kissimmee River Center area is approximately 1,200 acres and is located on the west bank of the C-38 Canal about halfway between S-65D and S-65E. The purpose of the wetland restoration areas are to restore natural flow to the river and hydroperiod to the floodplain wetlands. Restoration activities will include the excavation of new river channel and construction of weirs; however, the location of project features will be refined during PED.

For this project, the cultural resources survey methodology was developed in consultation with staff archaeologists from the Seminole Tribe of Florida's (STOF), Tribal Historic Preservation Office (THPO). The Corps typically consults with the STOF archaeologists in the development of research designs and methodologies pursuant to a Memorandum of Agreement between the Seminole Tribe of Florida and the Jacksonville District. In addition, the proposed LOWRP study area is located adjacent to the STOF's Brighton Reservation. The STOF THPO has conducted a number of surveys on Brighton Reservation which has provided a thorough knowledge of the local archaeology and environment. Survey methodology is also consistent with the Florida Division of Historic Resources cultural resources management standards and operations manual (Module Three) and Chapter 267, Florida Statutes. Due to the unique environmental conditions within Florida, probability models identifying zones of low, moderate, and high archaeological probability are often utilized to guide archaeological surveys. All high and moderate probability zones are subjected to systematic subsurface testing at 25 and 50 meter intervals, respectively. At least 10 percent of low probability zones are tested at 100 meter intervals in addition to judgmental shovel testing as appropriate.

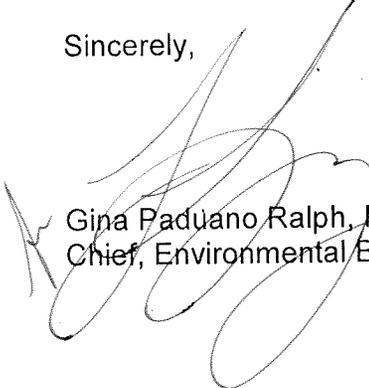
As a Civil Works project, the LOWRP is subject to Section 106 of the National Historic Preservation Act (NHPA) (36 CFR § 800). The jurisdiction requirements of 33 CFR 325 as outlined in Appendix C are only applicable to Corps Regulatory permitting actions. The Phase I cultural resources survey documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and coordinated with your office (THPO file # 2018-104), covers approximately 10 to 15 percent of the WAF feature identified as the TSP. The majority of the area which was surveyed for the K05 reservoir is within the new WAF feature. Due to limited access of privately-owned lands and budget constraints during the current feasibility phase of the project, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and Phase I cultural resources surveys on 1,800 acres of publicly-owned lands within the APE. The Corps recognizes there is a high potential for intact cultural deposits within the remainder of the APE and the TSP will be subject to supplementary Phase I cultural resources surveys after the project has been authorized by Congress and funding allocated during the PED phase of the project.

The entire TSP footprint where there is a potential to effect historic properties will be subject to cultural resources investigations during PED. As the other project alternatives will not be subject to a federal undertaking, there will be no supplementary surveys of alternatives which are located outside the APE.

Pursuant to Section 106 of the NHPA (36 CFR § 800.4[b][2]), the Corps is employing a phased process to identify and evaluate historic properties and assess effects. This approach is also documented in the Corps' EIS. Once the project has been authorized by Congress and the appropriate funding obligated, each suite of features will be subject to separate consultation and consideration of effects during PED as the APE may be subject to change based on final designs or modifications of project features. Supplementary cultural resources assessments will be conducted in areas that have not been previously surveyed. During PED and prior to construction, these surveys and a final determination of effects for any historic properties within the APE will be coordinated with your office. Discovery of historic properties may also lead to the development of avoidance, minimization, and/or mitigation plans in consultation with your office. As required under the NHPA, further Section 106 consultation is required and will be completed during the PED phase, once a refined APE has been developed. The LOWRP is currently in compliance with the procedural requirements of the NHPA and will remain in compliance with the NHPA pre- and post-construction.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Thlopthlocco Tribal Town, the Corps kindly requests continued consultation on this project. Please send any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or e-mail at Jason.d.moser@usace.army.mil

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

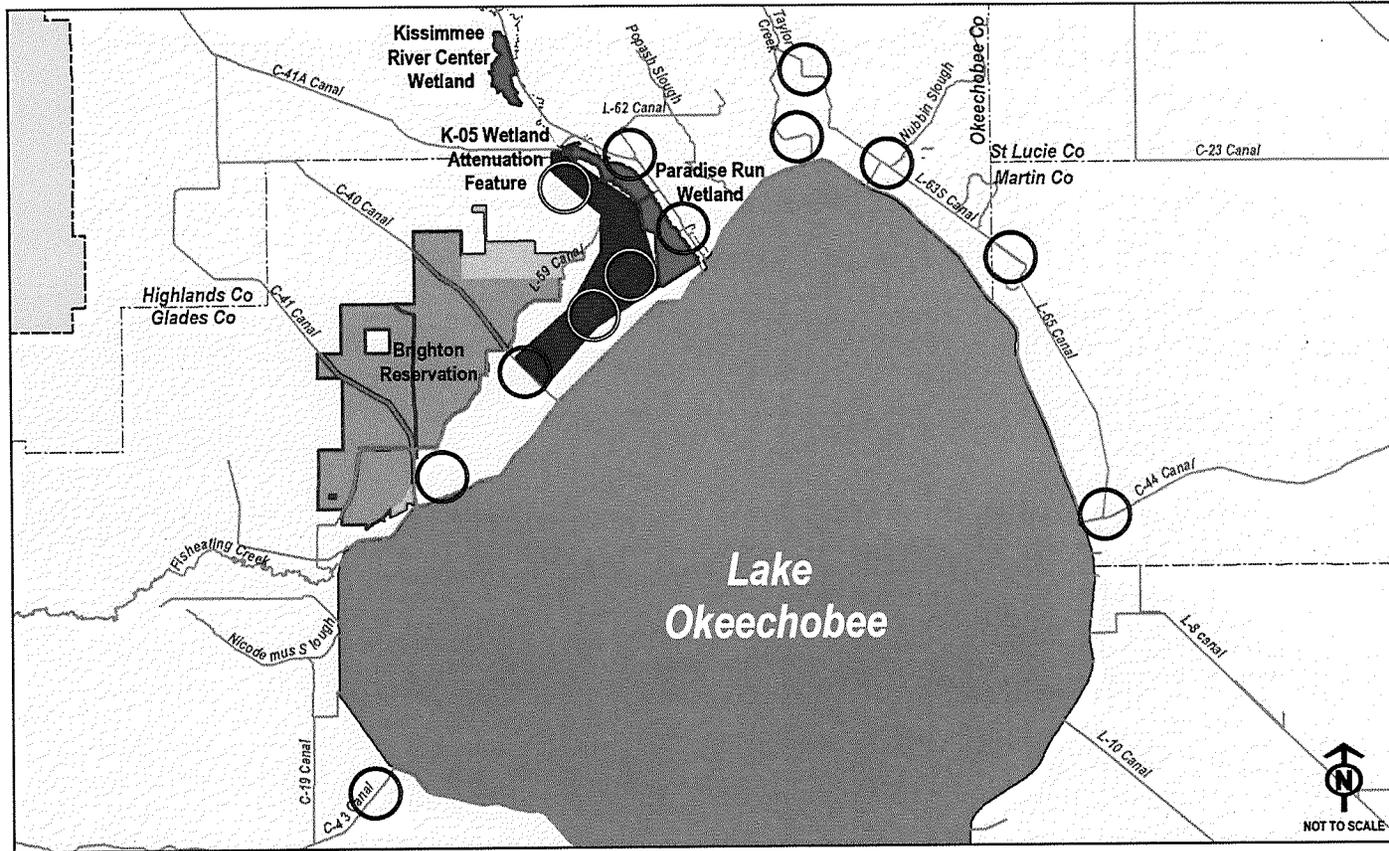


Figure 1. General location of the TSP features.



**Legend**

-  Wetland Attenuation Feature
-  ASR Well Cluster Buffered
-  Wetland Restoration Areas

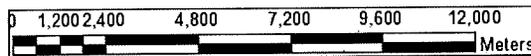


Figure 2. Detail of the TSP showing the WAF, wetland restoration areas, and local ASR well clusters.

July 30, 2018

THPO File Number: 2018-104

Gina Paduano Ralph  
Chief, Environmental Branch  
Department of the Army  
Jacksonville District Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, Florida 32207

**RE: Cultural Resource Assessment Survey for the Lake Okeechobee Watershed  
Restoration Project, Glades County, Florida**

Dear Mrs. Paduano Ralph,

Thank you for contacting the Thlopthlocco Tribal Town Tribal Historic Preservation Office (THPO) regarding the submerged cultural resource assessment survey for the Lake Okeechobee watershed restoration project in Glades County, Florida. Our office has reviewed the additional documents provided and offers the following comments.

The THPO thanks the Army Corps of Engineers (ACOE) for the clarification letter which addressed some of our concerns with this undertaking. The THPO still disagrees that probability models should be utilized for determining where to survey and survey interval spacing as many sites are missed when employing this technique. The THPO agrees with the use of a phased approach to cultural resource studies for the proposed undertaking once it has been approved and looks forward to reviewing the documents once they are submitted for review.

Should any human remains or cultural resources be inadvertently discovered during any work, please cease all activities and contact our THPO at [thpo@ttown.org](mailto:thpo@ttown.org) immediately.

Please feel free to contact the THPO at [thpo@ttown.org](mailto:thpo@ttown.org) if you have any questions.

Please refer to THPO file number 2018 -104 in all correspondence for this undertaking.

Sincerely,

Terry Clouthier  
Thlopthlocco Tribal Town  
Tribal Historic Preservation Officer

**From:** [Aldridge, Jason H.](#)  
**To:** [Moser, Jason D CIV \(US\)](#)  
**Subject:** [Non-DoD Source] RE: Lake Okeechobee Watershed Restoration Project  
**Date:** Friday, August 3, 2018 11:17:20 AM  
**Attachments:** [review Request For FL201807128345C THE LAKE OKEECHOBEE WATERSHED RESTORATION PROJECT \(LOWRP\)IN ST. LUCIE MARTIN OKEECHOBEE GLADES HENDRY HIGHLANDS AND LEE COUNTIES.msg](#)

---

Hi Jason,

We also received notice on July 12 through the Florida State Clearinghouse for the Lake Okeechobee Watershed Restoration Project (email attached). I just wanted to double check that the comments I provided yesterday are sufficient.

Thank you,

Jason Aldridge  
Compliance Review Supervisor | Deputy State Historic Preservation Officer | Bureau of Historic Preservation | Division of Historical Resources | Florida Department of State | 500 South Bronough Street | Tallahassee, Florida 32399 | 850.245.6344 | 1.800.847.7278 | Fax: 850.245.6439 | [Jason.Aldridge@DOS.MyFlorida.Com](mailto:Jason.Aldridge@DOS.MyFlorida.Com) | [dos.myflorida.com/historical](http://dos.myflorida.com/historical)

\*The Compliance Review Section and Florida Master Site File are holding a joint webinar on Wednesday, August 8 at 11 AM to review the basic requirements and process for submitting a Cultural Resources Assessment Survey to our office. For more information and to register please visit: [Blockedhttp://dos.myflorida.com/historical/meetings-and-events/upcoming-events/](http://dos.myflorida.com/historical/meetings-and-events/upcoming-events/)

-----Original Message-----

From: Aldridge, Jason H.  
Sent: Thursday, August 2, 2018 2:21 PM  
To: 'Moser, Jason D CIV (US)' <[Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil)>  
Subject: RE: Lake Okeechobee Watershed Restoration Project

Hello Jason,

I've attached our comments for LOWRP. We look forward to working with you going forward on the project. Please let me know if you have any questions.

Best,

Jason Aldridge  
Compliance Review Supervisor | Deputy State Historic Preservation Officer | Bureau of Historic Preservation | Division of Historical Resources | Florida Department of State | 500 South Bronough Street | Tallahassee, Florida 32399 | 850.245.6344 | 1.800.847.7278 | Fax: 850.245.6439 | [Jason.Aldridge@DOS.MyFlorida.Com](mailto:Jason.Aldridge@DOS.MyFlorida.Com) | [dos.myflorida.com/historical](http://dos.myflorida.com/historical)

\*The Compliance Review Section and Florida Master Site File are holding a joint webinar on Wednesday, August 8 at 11 AM to review the basic requirements and process for submitting a Cultural Resources Assessment Survey to our office. For more information and to register please visit: [Blockedhttp://dos.myflorida.com/historical/meetings-and-events/upcoming-events/](http://dos.myflorida.com/historical/meetings-and-events/upcoming-events/)

-----Original Message-----

From: Moser, Jason D CIV (US) [<mailto:Jason.D.Moser@usace.army.mil>]  
Sent: Monday, June 25, 2018 11:25 AM  
To: Aldridge, Jason H. <[Jason.Aldridge@dos.myflorida.com](mailto:Jason.Aldridge@dos.myflorida.com)>; CompliancePermits <[CompliancePermits@DOS.MyFlorida.com](mailto:CompliancePermits@DOS.MyFlorida.com)>  
Subject: Lake Okeechobee Watershed Restoration Project

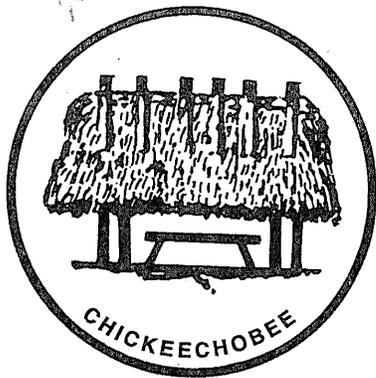
Good morning Jason,

I put the attached letter in the mail to your office today. Please call me or Meredith Moreno with any questions or concerns.

Thanks!

Jason D. Moser, PhD, RPA  
Archaeologist  
Planning Division, Environmental Branch  
Jacksonville District, US Army Corps of Engineers  
Office: 904-232-3028

The Department of State is committed to excellence.  
Please take our Customer Satisfaction Survey<Blocked<http://survey.dos.state.fl.us/index.aspx?email=Jason.Aldridge@dos.myflorida.com>>.



# Miccosukee Tribe of Indians of Florida

## Business Council Members

Billy Cypress, Chairman

Roy Cypress Jr., Assistant Chairman  
Jerry L. Cypress, Treasurer

Talbert Cypress, Secretary  
Petties Osceola Jr., Lawmaker

August 10, 2018

COL Jason A. Kirk, P.E.  
Commander, Jacksonville District  
US Army Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, Florida 32207-0019

SUBJECT: Draft Project Implementation Report (PIR) and Environmental Impact Statement (EIS) for the Lake Okeechobee Watershed Restoration Project (LOWRP), dated June 28, 2018.

Dear COL Kirk:

The Miccosukee Tribe of Indians of Florida (Tribe) appreciates the opportunity to comment on the LOWRP PIR and EIS. First, we'd like to congratulate the Corps decision to eliminate Deep Well Injection from further consideration. We agree with the Corps that the South Florida Ecosystem cannot afford to simply waste water. Florida needs more above ground shallow storage in order to deal with its hydrologic variability.

The proposed 43,000 acre feet Wetland Attenuation Feature (WAF) is exactly the kind of solution that is needed to improve the quantity, timing and distribution of flows entering Lake Okeechobee. The Tribe agrees that the WAF should help manage Lake Okeechobee water levels and reduce undesirable regulatory discharges to the coastal estuaries. The Tribe encourages the Corps to incorporate even more of these WAF's in other areas around the north end of the lake.

The Tribe also is encouraged by the two restoration sites: (1) the Paradise Run Wetland Restoration of 4,100 acres and (2) the Kissimmee River Center Wetland Restoration of 1,200 acres. Restoration of the historic Kissimmee River channel and floodplain will increase the spatial extent of wetlands and help to improve water quality before flows are routed into Lake Okeechobee.

Unfortunately, rather than increase the number of wetland restoration sites or increase the number of WAF sites, the Corps has chosen to build 80 Aquifer Storage and Recovery (ASR) wells. The Miccosukee Tribe adamantly disagrees with this decision.

In September 2014, your agency in coordination with the South Florida Water Management District, produced a report entitled, "Regional Ecological Risk Assessment of CERP Aquifer Storage and Recovery Implementation in South Florida". The following are a few selected excerpts from your own study:

- "An effect on reproduction of *Ceriodaphnia dubia* (water flea) was observed during Cycle 1 in two of the tests using recovered water. The March 10, 2009 test showed a **statistically significant** difference between the 12.5 percent recovered water and the controls. This data point is considered a test anomaly since no effects on reproduction were observed at higher recovered water concentrations up to 100%. The March 24, 2009 sample of recovered water showed an **IC<sub>25</sub> of 95.52 percent**, indicating a minor but measurable reduction in reproduction of the water flea in 95.52 percent recovered water. Cycle 2 showed an effect on reproduction on two tests. The November sample showed a decrease in reproduction in **100 percent** recovered water and the last sample near the completion of the cycle showed an **IC<sub>25</sub> of 76.4 percent**. Cycle 3 had one sampling event (May 2011) that showed effects on the survival (96 hour LC50 of 83.92%) and reduced reproduction (**IC<sub>25</sub> of 7.2%**), also near the end of the cycle. Two of the mid-cycle samples during Cycle 4 also showed chronic effects on *C. dubia* reproduction with **IC<sub>25</sub> of 83.9 and 76.2 percent**."
- "**Cycle 1 recharge water:** Mussels: The only **statistically significant** change over the 28 day study period was depuration of **Radium 226** (p=0.015). Fish: **Arsenic** accumulated in all fish tissues to an average concentration of **0.46 mg/kg** which was a **statistically significant** increase (p<0.001) from background tissue concentrations (pre-exposure). **Cycle 1 recovered water:** Mussels: **Arsenic** increased in all three treatment groups (p<0.001 for all treatments) and was **significantly higher** in the RCV treatment (**2.17 mg/kg**) than the BSW (1.07 mg/kg, p=0.005) and MIX (1.40 mg/kg, p=0.04). **Nickel** was accumulated in all three treatment groups from a baseline concentration of 0.05 mg/kg to a level of 0.19 mg/kg for BSW (p=0.001), 0.25 mg/kg for MIX (p<0.001) and 0.40 mg/kg for RCV (P<0.001). The ending concentration of **0.40 mg/kg** for the RCV treatment was **significantly higher** than that for BSW (p=0.002) and MIX (p=0.011). **Mercury** accumulated in mussels in both the BSW and MIX treatments (p=0.011 and p=0.037 respectively) but not in the RCV treatment. **Arsenic** (2.17 mg/kg) and **Nickel** (40 mg/kg) showed a **significant bioaccumulation** in mussel tissues exposed to recovered water for 28 days. **Molybdenum** increased in the MIX (p=0.016) and RCV treatments (p=0.002)."
- "The preliminary stressor-response hypothesis stated in the PMP was: **If the water quality characteristics of the recovered water affect surface water quality at the Pilot ASR projects, in the near field environment, and the Everglades, there is a potential for various effects on flora and fauna in these receiving waters.** In order to address this preliminary hypothesis, the ERA team re-worded the initial PMP hypothesis as this initial hypothesis, followed by a series of secondary stressor-effect hypotheses statements and questions. **Water quality of the recovered water does not negatively affect surface water quality downstream of a point of discharge to the level where negative effects on native flora and fauna are measurable at the local or regional level (Lake Okeechobee and Greater Everglades).**"

- “Exposure Characterization and the ASR pilot data results showed that the recovered water quality did change during the period of storage. These water quality changes and the exposure pathways modeled indicate that these changes could be promulgated throughout the canals, Lake Okeechobee, and possibly the Greater Everglades.”
- “The pH, alkalinity and hardness of the recovered water are likely to be greater than the surface water, especially in certain areas of the Greater Everglades.”
- “Increased trace metal concentrations could impact algae and diatom primary production, and these stressors could bioaccumulate in fish and invertebrates.”
- “**Acute or chronic effects** are observed on representative aquatic vertebrate and invertebrate species at various life stages.”
- “The *C. dubia* chronic test did show a response to recovered water in all cycles, near the end of the cycle (6 out of 17 tests showed a reduction in reproduction).”
- “Localized ASR sulfate loading near discharge points during certain time periods could produce critical tipping points with regard to stimulation/inhabitation of MeHg production.”

The numerous adverse impacts of recovered ASR water on the ecosystem have been studied, are well known to both the Corps and the SFWMD, and based on the PMP’s admitted change in hypothesis, are intentionally being downplayed. For these reasons, the Miccosukee Tribe opposes the widespread application of ASR technology in the Everglades Ecosystem. Based on your own analysis, the usage of widespread ASR technology will be detrimental to Lake Okeechobee and downstream receiving waters, including the Tribal Everglades.

As with all projects, the presence of cultural resources inside the project footprint is of particular concern to the Miccosukee people. Relocation of these sensitive resources is not an option and inundation is forbidden. Publically available documentation should never indicate locations of these cultural resources to prevent vandalism. If there is a plan to preserve cultural resources in situ the documentation should indicate that.

In conclusion, the Tribe agrees with the restoration of the Indian Prairie Sub-Basin and believes those same storage options should be employed in other areas around Lake Okeechobee. Additionally, the over-reliance on the EAA Storage Reservoir, south of Lake Okeechobee, has caused the Corps to greatly underestimate the amount of storage needed north of the lake.

Sincerely yours,



Billy Cypress  
Tribal Chairman

**From:** [Theodore Isham](#)  
**To:** [Moser, Jason D CIV \(US\)](#)  
**Subject:** [Non-DoD Source] SNO Response to USACE Project at Lake Okeechobee WRP  
**Date:** Wednesday, July 11, 2018 11:25:59 AM

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This Opinion is being provided by Seminole Nation of Oklahoma's Cultural Advisor, pursuant to authority vested by the Seminole Nation of Oklahoma General Council. The Seminole Nation of Oklahoma is an independently Federally-Recognized Indian Nation headquartered in Wewoka, OK.

In keeping with the National Environmental Policy Act (NEPA), and Section 106 of the National Historic Preservation Act (NHPA), 36 CFR Part 800, this letter is to acknowledge that the Seminole Nation of Oklahoma has received notice of the proposed project at the above mentioned location.

Based on the information provided and because the potential for buried cultural resources, the proposed project has a probability of affecting archaeological resources, some of which may be eligible for listing in the National Register of Historic Places (NRHP).

The Seminole Nation of Oklahoma asks for a listing of the flora in the impact area.

The Seminole Nation of Oklahoma further request that in the restoration of the wetlands areas, that culturally significant plantings be utilized where possible. Further consultation is also requested.

Furthermore, due to the historic presence of our people in the project area, inadvertent discoveries of human remains and related NAGPRA items may occur, even in areas of existing or prior development. Should this occur we request all work cease and the Seminole Nation of Oklahoma and other appropriate agencies be immediately notified.

Theodore Isham

Seminole Nation of Oklahoma

Historic Preservation Officer

PO Box 1498

Wewoka, Ok 74884

Phone: 405-234-5218

e-mail: [isham.t@sno-nsn.gov](mailto:isham.t@sno-nsn.gov) <<mailto:isham.t@sno-nsn.gov>>



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

Gina Paduano Ralph, Ph.D.  
Environmental Branch Chief, Planning Division  
Jacksonville District Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, Florida 32207-0019

October 3, 2018

RE: DHR Project File No.: 2018-1350B, Received by DHR: June 25, 2018,  
Revision Requested: September 12, 2018  
Project: *Lake Okeechobee Watershed Restoration Project (LOWRP)*

Dr. Ralph:

Our office reviewed the draft PIR/EIS for the Lake Okeechobee Watershed Restoration Project (LOWRP) in accordance with the National Environmental Policy Act of 1969 and implementing regulations. We find the document to be consistent with federal regulation regarding the treatment of historic properties/cultural resources under NEPA.

As noted in Appendix C. Part 2 C.2.22 of the document, Section 106 consultation regarding the potential effects of LOWRP operations on historic properties is ongoing. We will continue to work with our federal, state, and tribal partners as the project progresses to ensure compliance with Section 106, and to minimize effects to historic properties.

If you have any questions, please contact me by email at [Jason.Aldridge@dos.myflorida.com](mailto:Jason.Aldridge@dos.myflorida.com), or by telephone at 850-245-6344.

Sincerely,

For  
Timothy A. Parsons, Ph.D.  
Director, Division of Historical Resources  
and State Historic Preservation Officer

Division of Historical Resources  
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399  
850.245.6300 • 850.245.6436 (Fax) FLHeritage.com



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

MAY 10 2019

John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation  
401 F. Street NW, Suite 308  
Washington, DC 20001-2637

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Mr. Fowler:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR) and integrated Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

The Tentatively Selected Plan (TSP) in the PIR/EIS includes the following project features: a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features.

Due to access limitations to privately-owned lands and budget constraints during the PIR feasibility phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and a Phase I cultural resources survey of a portion of state-owned lands within the APE.

The results of this investigation are documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and were coordinated in March 2018 with the Florida State Historic Preservation Officer (SHPO) (DHR Project File No: 2018-1350), the Seminole Tribe of Florida (THPO Compliance No. 0029311), the Miccosukee Tribe of Indians of Florida, the Seminole Nation of Oklahoma, and Thlopthlocco Tribal Town. The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to additional Phase I cultural resources surveys during the Preconstruction, Engineering, and Design phase.

Due to the timing of the LOWRP project, the Corps is currently unable to identify and evaluate cultural resources in all of the APE, nor to determine effects of the TSP on historic properties prior to completion of the EIS/PIR. Pursuant to 54 U.S.C. 306108 and § 800.4(b)(2), the Corps is deferring final identification and evaluation of historic properties until after Project approval, additional funding becomes available, and prior to construction by executing a Programmatic Agreement with the Florida State Historic Preservation Office and the Advisory Council of Historic Preservation.

Pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to be a Signatory of a Programmatic Agreement for the Lake Okeechobee Watershed Restoration Project. A draft Programmatic Agreement for the Project is enclosed. Please provide any comments within 30 calendar days of the date of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or by e-mail [Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil).

Sincerely,



Angela E. Dunn  
Chief, Environmental Branch

Enclosure

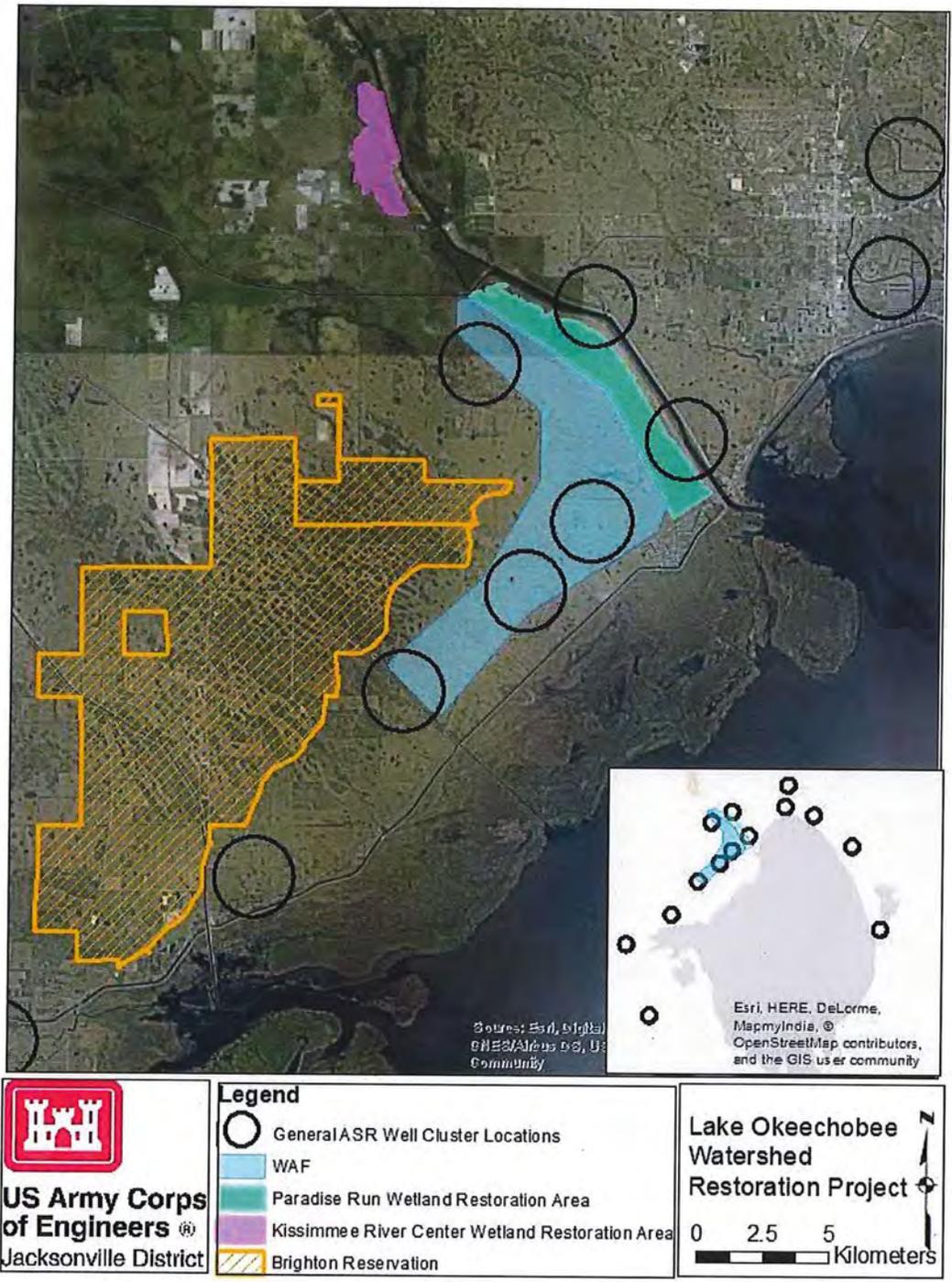


Figure 1. Preliminary APE for the Tentatively Selected Plan (TSP).



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CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

MAY 10 2019

Tim Parsons, Ph.D.  
State Historic Preservation Officer  
Division of Historical Resources  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Dr. Parsons:

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Sincerely,



Angela E. Dunn  
Chief, Environmental Branch

Enclosure

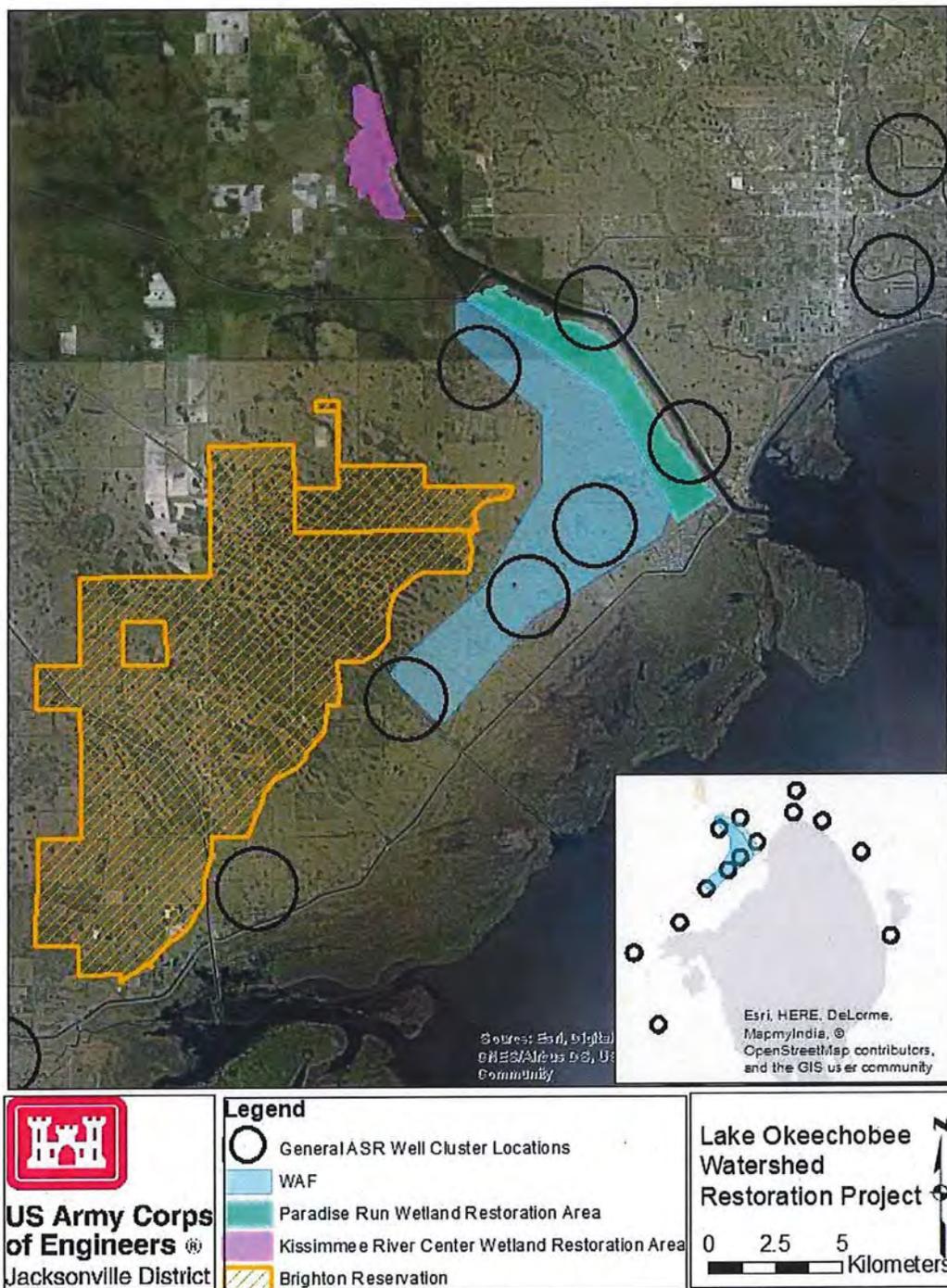


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CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

MAY 10 2019

Planning and Policy Division  
Environmental Branch

Mr. Kevin Donaldson, Tribal Representative  
NAGPRA, Section 106  
Miccosukee Tribe of Indians of Florida  
P.O. Box 44021  
Tamiami Station  
Miami, Florida 33144

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Mr. Donaldson:

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Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps would like to invite your office to be a Concurring party Programmatic Agreement for the Lake Okeechobee Watershed Restoration Project. If you decline to sign the Programmatic Agreement as a Concurring party, the Corps will continue to consult with your office on the Project in the future. A draft Programmatic Agreement for the Project is enclosed. Please provide any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or by e-mail Jason.D.Moser@usace.army.mil.

Sincerely,



Angela E. Dunn  
Chief, Environmental Branch

Enclosure

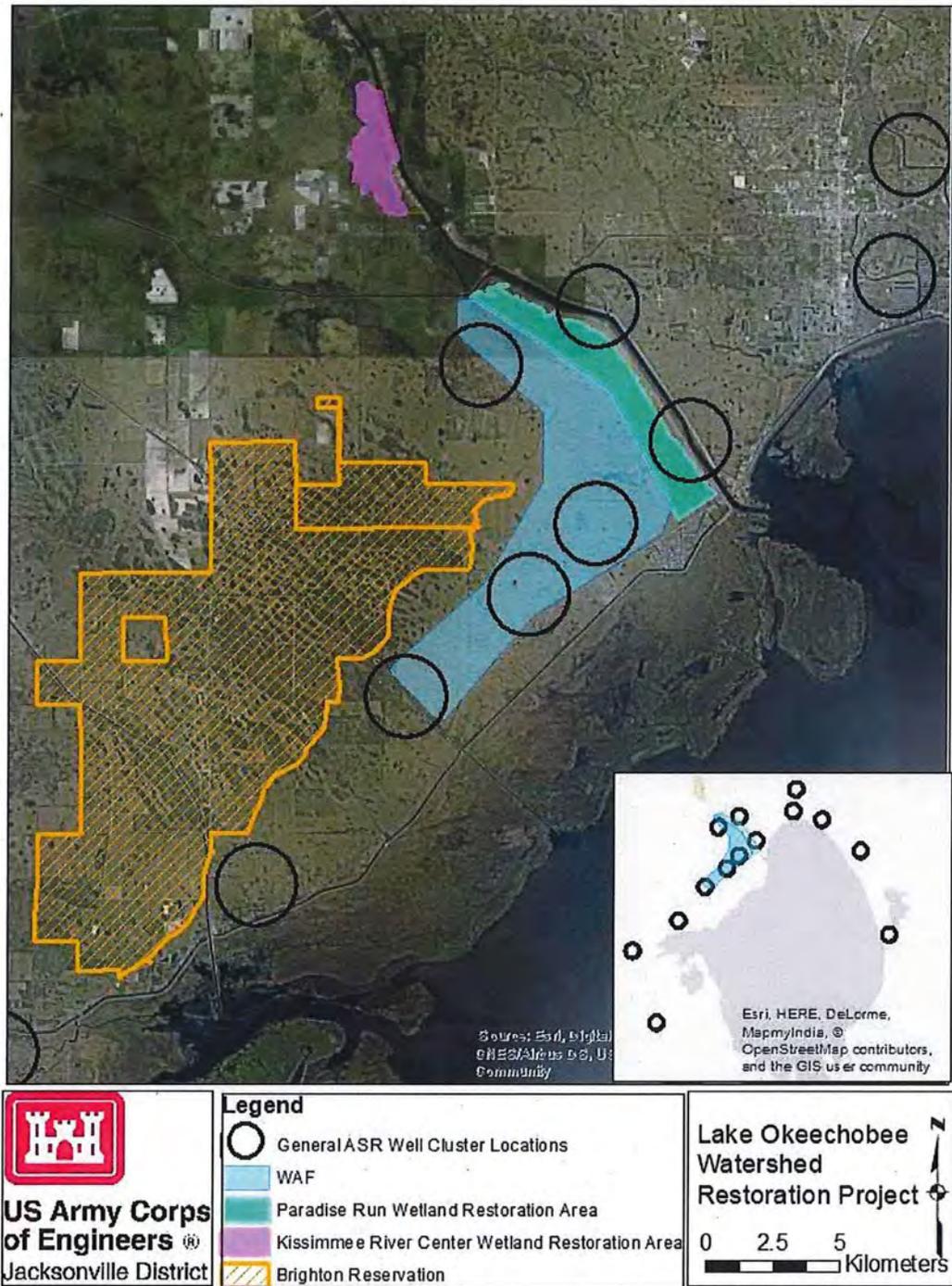


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CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

MAY 10 2019

Planning and Policy Division  
Environmental Branch

Mr. Theodore Isham  
Historic Preservation Officer  
Seminole Nation of Oklahoma  
PO Box 1498  
Wewoka, Ok 74884

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Mr. Isham:

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Sincerely,



Angela E. Dunn  
Chief, Environmental Branch

Enclosure





DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

MAY 10 2019

Dr. Paul Backhouse, THPO  
Seminole Tribe of Florida  
Tribal Historic Preservation Office  
30290 Josie Billie Highway, PMP 1004  
Clewiston, FL 33440

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Dr. Backhouse:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR) and integrated Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

The Tentatively Selected Plan (TSP) in the PIR/EIS includes the following project features: a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features.

Due to access limitations to privately-owned lands and budget constraints during the PIR feasibility phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and a Phase I cultural resources survey of a portion of state-owned lands within the APE.

The results of this investigation are documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and were coordinated in March 2018 with the Florida State Historic Preservation Officer (SHPO) (DHR Project File No: 2018-1350), the Seminole Tribe of Florida (THPO Compliance No. 0029311), the Miccosukee Tribe of Indians of Florida, the Seminole Nation of Oklahoma, and Thlopthlocco Tribal Town. The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to additional Phase I cultural resources surveys during the Preconstruction, Engineering, and Design phase.

Due to the timing of the LOWRP project, the Corps is currently unable to identify and evaluate cultural resources in all of the APE, nor to determine effects of the TSP on historic properties prior to completion of the EIS/PIR. Pursuant to 54 U.S.C. 306108 and § 800.4(b)(2), the Corps is deferring final identification and evaluation of historic properties until after Project approval, additional funding becomes available, and prior to construction by executing a Programmatic Agreement with the Florida State Historic Preservation Office and the Advisory Council of Historic Preservation.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps would like to invite your office to be a Concurring party Programmatic Agreement for the Lake Okeechobee Watershed Restoration Project. If you decline to sign the Programmatic Agreement as a Concurring party, the Corps will continue to consult with your office on the Project in the future. A draft Programmatic Agreement for the Project is enclosed. Please provide any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or by e-mail [Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil).

Sincerely,



Angela E. Dunn  
Chief, Environmental Branch

Enclosure

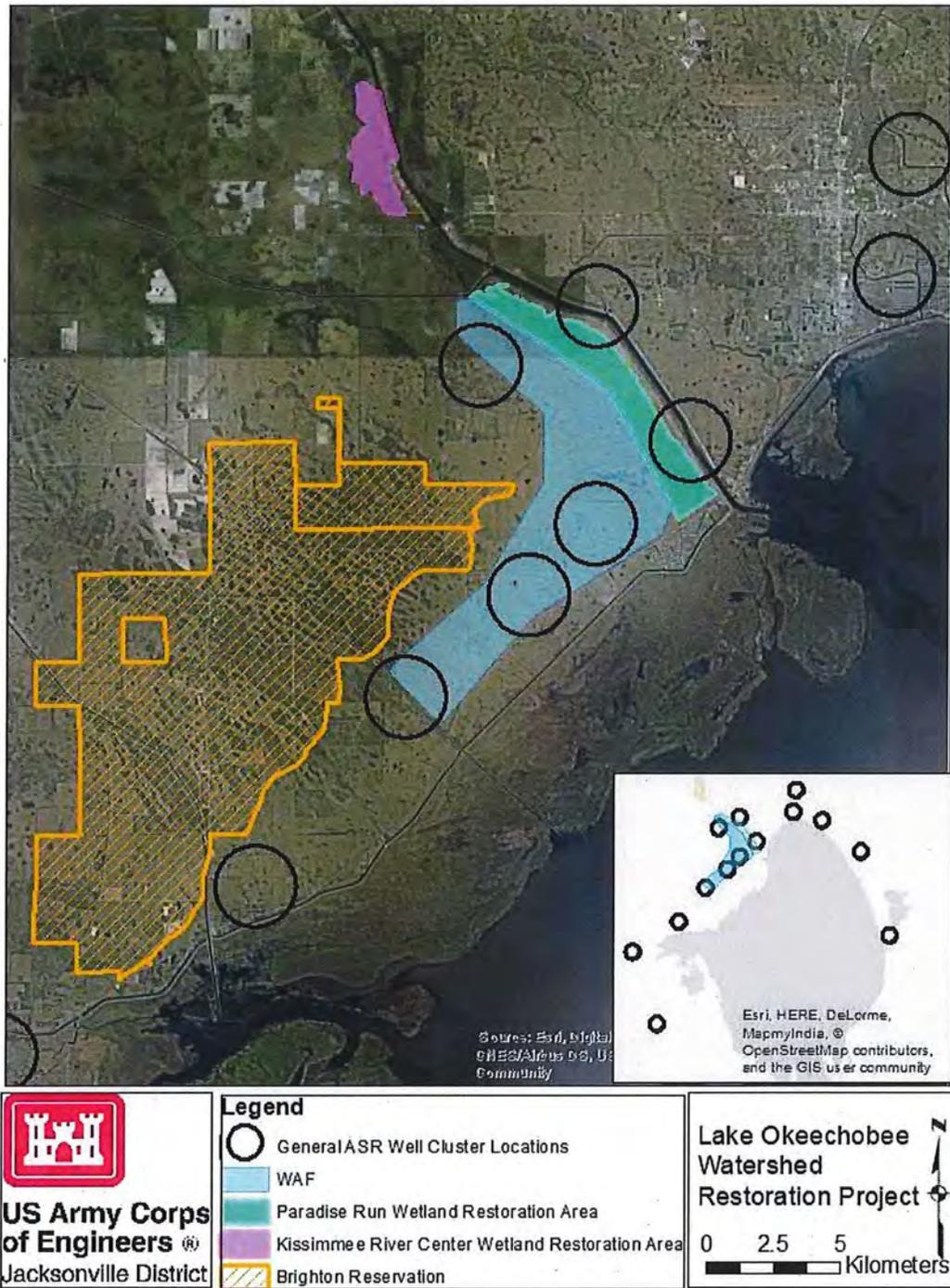


Figure 1. Preliminary APE for the Tentatively Selected Plan (TSP).



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

MAY 10 2019

Ms. Janet Maylen, THPO  
Thlopthlocco Tribal Town  
P.O. Box 188  
Okemah, OK 74859

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Ms. Maylen:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing National Environmental Policy Act (NEPA) documentation related to a Project Implementation Report (PIR) and integrated Environmental Impact Statement (EIS) for the watersheds north of Lake Okeechobee, Lake Okeechobee, and the Caloosahatchee and St. Lucie estuaries. The Lake Okeechobee Watershed Restoration Project (LOWRP) was initiated under the Comprehensive Everglades Restoration Plan (CERP) in July 2016. The LOWRP intent is to address Everglades' related water resource issues identified in the CERP.

The Tentatively Selected Plan (TSP) in the PIR/EIS includes the following project features: a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal (Figure 1). The proposed WAF area of potential effects (APE) is approximately 12,500 acres and includes the embankments, seepage canal, other perimeter features.

Due to access limitations to privately-owned lands and budget constraints during the PIR feasibility phase, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and a Phase I cultural resources survey of a portion of state-owned lands within the APE.

The results of this investigation are documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018) and were coordinated in March 2018 with the Florida State Historic Preservation Officer (SHPO) (DHR Project File No: 2018-1350), the Seminole Tribe of Florida (THPO Compliance No. 0029311), the Miccosukee Tribe of Indians of Florida, the Seminole Nation of Oklahoma, and Thlopthlocco Tribal Town. The Corps recognizes there is a high potential for intact cultural deposits within the APE and the TSP will be subject to additional Phase I cultural resources surveys during the Preconstruction, Engineering, and Design phase.

Due to the timing of the LOWRP project, the Corps is currently unable to identify and evaluate cultural resources in all of the APE, nor to determine effects of the TSP on historic properties prior to completion of the EIS/PIR. Pursuant to 54 U.S.C. 306108 and § 800.4(b)(2), the Corps is deferring final identification and evaluation of historic properties until after Project approval, additional funding becomes available, and prior to construction by executing a Programmatic Agreement with the Florida State Historic Preservation Office and the Advisory Council of Historic Preservation.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps would like to invite your office to be a Concurring party Programmatic Agreement for the Lake Okeechobee Watershed Restoration Project. If you decline to sign the Programmatic Agreement as a Concurring party, the Corps will continue to consult with your office on the Project in the future. A draft Programmatic Agreement for the Project is enclosed. Please provide any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Jason D. Moser, PhD at 904-232-3028 or by e-mail Jason.D.Moser@usace.army.mil.

Sincerely,



Angela E. Dunn  
Chief, Environmental Branch

Enclosure



Milford Wayne Donaldson FAIA  
Chairman

Leonard A. Forsman  
Vice Chairman

John M. Fowler  
Executive Director



*Preserving America's Heritage*

May 24, 2019

The Honorable R.D. James  
Assistant Secretary for the Army for Civil Works  
Office of the Assistant Secretary of the Army (Civil Works)  
108 Army Pentagon  
Washington, DC 20310-0108

Ref: *Lake Okeechobee Watershed Restoration Project Programmatic Agreement  
Glades, Highlands, Okeechobee, St. Lucie, Martin Counties, Florida  
ACHPConnect Log Number: 013978*

Dear Mr. James:

In response to the recent notification by the U.S. Army Corps of Engineers, Jacksonville District the Advisory Council on Historic Preservation (ACHP) will participate in consultation to develop a Section 106 agreement document for the referenced undertaking. Our decision to participate in this consultation is based on the *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, contained within the regulations, "Protection of Historic Properties" (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act. The criteria are met for this proposed undertaking because it has the potential for presenting procedural problems and presents issues of concern to Indian tribes.

Section 800.6(a)(1)(iii) of these regulations requires that we notify you as the head of the agency of our decision to participate in consultation. By copy of this letter, we are also notifying Colonel Andrew D. Kelly, District Commander, of this decision.

Our participation in this consultation will be handled by Mr. Christopher Daniel who can be reached at (202) 517-0223 or via email at [cdaniel@achp.gov](mailto:cdaniel@achp.gov). We look forward to working with your agency and other consulting parties to reach agreement on alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.

Sincerely,

John M. Fowler  
Executive Director

ADVISORY COUNCIL ON HISTORIC PRESERVATION

LOWRP PIR and EIS

401 F Street NW, Suite 308 • Washington, DC 20001-2637  
Phone: 202-517-0200 • Fax: 202-517-6381 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

February 2020



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Ms. Janet Maylen, THPO  
Thlopthlocco Tribal Town  
P.O. Box 188  
Okemah, OK 74859

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Ms. Maylen:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing the above referenced Programmatic Agreement (Agreement) for compliance with Section 106 of the NHPA (54 U.S.C. 306108). The Agreement has been amended to incorporate comments made by the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, the Florida State Historic Preservation Office, and other consulting parties to the Agreement. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/>

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to provide comments on the LOWRP Agreement within 30 calendar days of receipt of this letter. Unless the Thlopthlocco Tribal Town declines to receive additional consultation regarding the Agreement, the Corps will continue to consult with the Tribe during subsequent execution of the Agreement regardless of comment submittal. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail [Meredith.A.Moreno@usace.army.mil](mailto:Meredith.A.Moreno@usace.army.mil).

Sincerely,

Digitally signed by  
DUNN,ANGELA.E.1300303923  
Date: 2019.09.27 10:11:56  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation  
401 F. Street NW, Suite 308  
Washington, DC 20001-2637

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement (ACHP Log Number: 013978)

Dear Mr. Fowler:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is in receipt of your letter dated July 26, 2019 regarding comments to the above referenced Programmatic Agreement (Agreement). The Agreement has been amended to incorporate comments made by the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, the Florida State Historic Preservation Office, and other consulting parties to the Agreement. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/>

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to provide any additional comments on the LOWRP Agreement within 30 calendar days of receipt of this letter. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail [Meredith.A.Moreno@usace.army.mil](mailto:Meredith.A.Moreno@usace.army.mil).

Sincerely,

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Date: 2019.09.27 10:09:08  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Dr. William B. Lees  
Executive Director  
Florida Public Archaeology Network  
207 E. Main St.  
Pensacola, Florida 32502

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Dr. Lees:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is studying the environmental effects related to the Lake Okeechobee Watershed Restoration Project (LOWRP). The intent of LOWRP is to address Everglades' related water resource issues identified in the Comprehensive Everglades Restoration Plan (CERP). The Corps is currently developing an Environmental Impact Statement (EIS)/Project Implementation Report (PIR) as part of the Corps' compliance with the National Environmental Policy Act. As a result of the current study, the LOWRP Recommended Plan includes a Wetland Attenuation Feature (WAF), 80 Aquifer Storage and Recovery (ASR) wells, and the Paradise Run and Kissimmee River Center wetland restoration areas. The proposed WAF is a flow-through wetland that will primarily be used for shallow surface water storage that will serve to attenuate peak flows into Lake Okeechobee from the Kissimmee River Basin. The WAF will be located within the Indian Prairie sub-watershed west of the C-38 Canal, north of SR 78, east of the Seminole Tribe of Florida Brighton Reservation, and south of the C-41A Canal.

Within the current feasibility-level phase of the project, cultural resource investigations have been limited to a literature search and records review for known archaeological sites and a Phase I cultural resources survey of a portion of state-owned lands within the APE. The results of this investigation is documented in the report titled *Cultural Resource Assessment Survey for the Lake Okeechobee Watershed Project Glades County, Florida* (Carlson and Barnett 2018). The Corps recognizes there is a high potential for intact cultural deposits within the APE and the Recommended Plan will be subject to additional Phase I cultural resources surveys during the Preliminary Engineering and Design (PED) phase of the project.

Section 1001 of the Water Resources Reform and Development Act of 2014 (Public Law 113-121) mandates that, to the extent practicable, a feasibility-level analysis must be completed in three years and will have a maximum Federal cost of \$3 million; therefore, LOWRP designs and impacts are preliminary and may be subject to change. Due to these timing and budgetary constraints, the size of the project, and inability to gain access to private property, the Corps is currently unable to identify and evaluate cultural resources and determine effects of the recommended plan on historic properties prior to completion of the appropriate NEPA documentation (PIR/EIS). Pursuant to 54 U.S.C. 306108 and § 800.4(b)(2), the Corps is deferring final identification and evaluation of historic properties until after the LOWRP is approved by Congress, funding is appropriated, and prior to construction by executing a Programmatic Agreement with the Florida State Historic Preservation Office and the Advisory Council of Historic Preservation.

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps recognizes that the Florida Public Archaeology Network (FPAN) may be an interested public participant to the LOWRP Programmatic Agreement. A draft Programmatic Agreement for the Project can be found at the following location: <https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/>. If FPAN is inclined to participate as an interested public organization, please provide any comments within 30 calendar days of receipt of this letter. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail [Meredith.A.Moreno@usace.army.mil](mailto:Meredith.A.Moreno@usace.army.mil).

Sincerely,



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Date: 2019.09.27 10:01:49  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure

cc:

Sarah E. Miller, Northeast and East Central Region Director, Florida Public Archaeology Network, 74 King Street, St. Augustine, Florida 32085-1027  
Sara Ayers-Rigsby, Southwest Region Director, Florida Public Archaeology Network, 2211 Widman Way, Suite 230 Fort Myers, Florida 33901  
Jeff Moates, West Central Region Director, Florida Public Archaeology Network, 4202 E. Fowler Ave SOC 110 Tampa, FL 33620



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Mr. Kevin Donaldson, Tribal Representative  
NAGPRA, Section 106  
Miccosukee Tribe of Indians of Florida  
P.O. Box 44021  
Tamiami Station  
Miami, Florida 33144

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Mr. Donaldson:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing the above referenced Programmatic Agreement (Agreement) for compliance with Section 106 of the NHPA (54 U.S.C. 306108). The Agreement has been amended to incorporate comments made by the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, the Florida State Historic Preservation Office, and other consulting parties to the Agreement. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/>

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to provide any additional comments on the LOWRP Agreement within 30 calendar days of receipt of this letter. Unless the Miccosukee Tribe of Indians of Florida declines to receive additional consultation regarding the Agreement, the Corps will continue to consult with the Tribe during subsequent execution of the Agreement regardless of comment submittal. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail Meredith.A.Moreno@usace.army.mil.

Sincerely,

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Date: 2019.09.27 09:54:27  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Michelle Ferree  
Lead Project Manager  
Everglades Policy and Coordination Division  
South Florida Water Management District  
3301 Gun Club Road, MS 8312  
West Palm Beach, FL 33411

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Ms. Ferree:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is in receipt of comments received via email on June 18, 2019 regarding the above referenced Programmatic Agreement (Agreement). The Agreement has been amended to incorporate comments made by the South Florida Water Management, the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, and the Florida State Historic Preservation Office. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

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Sincerely,

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Angela E. Dunn  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Tim Parsons, Ph.D.  
State Historic Preservation Officer  
Division of Historical Resources  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Dr. Parsons:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is in receipt of comments received via email on July 16, 2019 regarding the above referenced Programmatic Agreement (Agreement). The Agreement has been amended to incorporate comments made by the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, the Florida State Historic Preservation Office, and other consulting parties to the Agreement. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

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Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to provide any additional comments on the LOWRP Agreement within 30 calendar days of receipt of this letter. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail [Meredith.A.Moreno@usace.army.mil](mailto:Meredith.A.Moreno@usace.army.mil).

Sincerely,

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Date: 2019.09.27 10:14:00  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Dr. Paul Backhouse, THPO  
Seminole Tribe of Florida  
Tribal Historic Preservation Office  
30290 Josie Billie Highway, PMP 1004  
Clewiston, FL 33440

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement (THPO Number: 0029311)

Dear Dr. Backhouse:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is in receipt of comments received via email on July 1, 2019 regarding the above referenced Programmatic Agreement (Agreement). The Agreement has been amended to incorporate comments made by the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, the Florida State Historic Preservation Office, and other consulting parties to the Agreement. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/>

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to provide any additional comments on the LOWRP Agreement within 30 calendar days of receipt of this letter. Unless the Seminole Tribe of Florida declines to receive additional consultation regarding the Agreement, the Corps will continue to consult with the Tribe during subsequent execution of the Agreement regardless of comment submittal. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail Meredith.A.Moreno@usace.army.mil.

Sincerely,

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Date: 2019.09.27 09:59:03  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

Planning and Policy Division  
Environmental Branch

27 September 2019

Mr. Theodore Isham  
Historic Preservation Officer  
Seminole Nation of Oklahoma  
PO Box 1498  
Wewoka, Ok 74884

Re: The Lake Okeechobee Watershed Restoration Project (LOWRP) Programmatic Agreement

Dear Mr. Isham:

The U.S. Army Corps of Engineers, Jacksonville District (Corps) is preparing the above referenced Programmatic Agreement (Agreement) for compliance with Section 106 of the NHPA (54 U.S.C. 306108). The Agreement has been amended to incorporate comments made by the Seminole Tribe of Florida Tribal Historic Preservation Office, the Advisory Council on Historic Preservation, the Florida State Historic Preservation Office, and other consulting parties to the Agreement. Due to the nature and complexity of this Project, the Corps is providing the enclosed final draft of the Agreement and associated comment/response matrix for additional review and comment. The Corps is also releasing the document for a 30-day public comment period at the following location:

<https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/>

Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800), the Corps kindly requests your office to provide comments on the LOWRP Agreement within 30 calendar days of receipt of this letter. Unless the Seminole Nation of Oklahoma declines to receive additional consultation regarding the Agreement, the Corps will continue to consult with the Tribe during subsequent execution of the Agreement regardless of comment submittal. If there are any questions, please contact Ms. Meredith A. Moreno at 904-232-1577 or by e-mail Meredith.A.Moreno@usace.army.mil.

Sincerely,

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Date: 2019.09.27 10:15:47  
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Angela E. Dunn  
Chief, Environmental Branch

Enclosure

**From:** [Moreno, Meredith A CIV USARMY CESAJ \(US\)](mailto:Moreno.Meredith.A.CIV.USARMY.CESAJ@US)  
**To:** [Moreno, Meredith A CIV USARMY CESAJ \(US\)](mailto:Moreno.Meredith.A.CIV.USARMY.CESAJ@US)  
**Subject:** RE: LOWRP PA  
**Date:** Friday, November 15, 2019 1:52:23 PM

---

-----Original Message-----

From: Aldridge, Jason H. [<mailto:Jason.Aldridge@dos.myflorida.com>]  
Sent: Tuesday, July 16, 2019 9:51 AM  
To: Moser, Jason D CIV (USA) <[Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil)>  
Subject: [Non-DoD Source] RE: LOWRP PA

Hello Jason,

I've attached a track changes version of the document with comments. I'd be happy to have a call later this week if you'd like to discuss.

Best,  
Jason

-----Original Message-----

From: Moser, Jason D CIV (USA) [<mailto:Jason.D.Moser@usace.army.mil>]  
Sent: Thursday, July 11, 2019 3:53 PM  
To: Aldridge, Jason H. <[Jason.Aldridge@dos.myflorida.com](mailto:Jason.Aldridge@dos.myflorida.com)>  
Subject: RE: LOWRP PA

EMAIL RECEIVED FROM EXTERNAL SOURCE

Jason:

Monday would be great. I am off work tomorrow.

Jason

-----Original Message-----

From: Aldridge, Jason H. [<mailto:Jason.Aldridge@dos.myflorida.com>]  
Sent: Thursday, July 11, 2019 3:18 PM  
To: Moser, Jason D CIV (USA) <[Jason.D.Moser@usace.army.mil](mailto:Jason.D.Moser@usace.army.mil)>  
Subject: [Non-DoD Source] RE: LOWRP PA

Hey Jason,

I've been a bit swamped lately, but I will work on updated comments and send them your way tomorrow or Monday.

Best,  
Jason

-----Original Message-----

From: Moser, Jason D CIV (USA) [<mailto:Jason.D.Moser@usace.army.mil>]  
Sent: Wednesday, July 10, 2019 9:30 AM  
To: Aldridge, Jason H. <[Jason.Aldridge@dos.myflorida.com](mailto:Jason.Aldridge@dos.myflorida.com)>  
Subject: Re: LOWRP PA

EMAIL RECEIVED FROM EXTERNAL SOURCE

Jason:

You may see that we have revised the draft EIS for Lake Okeechobee Watershed Restoration Project. Your office may have received a copy for review. There a number of large changes for the document; however, most of the changes with the EIS are changes to the legal language and information about the PA that we are putting together. Once the comment period on the revised draft closes, we will respond to these additional comments.

I am under a lot of pressure to maintain our project schedule and to do so, I really need to get SHPO written comments back on the LOWRP PA so I can incorporate these and make it available for public comment. I know that you needed to speak to Tim about some of the items we discussed. When do you think that we might get comments back?

Also, FYI--I checked with our engineers. The current design of the project is a conceptual plan--it is approximately 5 to 10% complete. Additional design work will not move forward until the project becomes authorized and funded.

Sincerely,

Jason D. Moser, PhD, RPA  
Archaeologist  
Planning Division, Environmental Branch  
Jacksonville District, US Army Corps of Engineers  
Office: 904-232-3028



Preserving America's Heritage

July 26, 2019

Ms. Angela Dunn  
Chief, Environmental Branch  
Jacksonville District  
U.S. Army Corps of Engineers  
701 San Marco Blvd.  
Jacksonville, FL 32217

Ref: *Lake Okeechobee Watershed Restoration Project Programmatic Agreement  
Glades, Highlands, Okeechobee, St. Lucie, Martin Counties, Florida  
ACHPConnect Log Number: 013978*

Dear Ms. Dunn:

As indicated in our notification letter to Assistant Secretary James, the Advisory Council on Historic Preservation (ACHP) elected to participate in the Section 106 consultation for this undertaking because it has the potential for presenting procedural problems and issues of concern to Indian tribes. Based on the existing consultation information and correspondence provided by the U.S. Army Corps of Engineers (Corps) Jacksonville District and from the Seminole Tribe of Florida (STOF) Tribal Historic Preservation Officer (THPO) and the Florida State Historic Preservation Officer (SHPO), ACHP offers the following comments and recommendations:

### **Discussion of Alternatives & Modifications**

The ACHP recognizes that the Section 106 process encourages, but does not mandate, a preservation outcome, and recognizes that sometimes there may be no way for a project to proceed without adversely affecting historic properties. However, following a finding of adverse effect, the agency must consult on the resolution of those effects, which includes consideration of possible alternatives and modifications to the undertaking that would seek to avoid or minimize those effects. The ACHP supports the comments by the STOF THPO concerning the analysis of alternatives and consideration of modifications to the undertaking to further avoid and minimize effects to historic properties. We recognize that the Corps' undertaking is constrained by a myriad of environmental and hydrological requirements; however, we urge the Corps to clarify what steps have already been taken to consider viable proposed alternatives and modifications. Additionally, as the Corps undertakes design efforts on the proposed construction, the PA should accommodate opportunities for discussion on further modifications to the undertaking, particularly when those efforts could result in avoidance or minimization of adverse effects.

### **Area of Potential Effect (APE)**

The ACHP concurs with the position of both STOF THPO and SHPO, that the current APE will need to be further refined during the Preliminary Engineering and Design (PED) phase of the project. Because these refinements will occur after the execution of the Programmatic Agreement (PA), the ACHP urges

ADVISORY COUNCIL ON HISTORIC PRESERVATION

the Corps to revise the language in the current draft PA to insure a robust and early consultation in the PED phase. While the current draft language indicates that APE revisions may occur, we urge the Corps to expand the process for making revisions to include a back and forth dialogue with consulting parties and on subsequent identification and evaluation efforts. Additionally, we request the draft PA be updated to clearly identify how all consulting parties, particularly the STOF THPO, will be provided with opportunities to review revisions to the APE and any subsequent identification efforts that might occur because of it. The current draft appears to indicate only the SHPO's involvement. We recommend correcting this throughout the draft PA.

The ACHP recognizes the concerns voiced by the STOF THPO regarding the risk of a potential breach in the proposed Wetland Attenuation Feature; however, we do not agree that expansion of the proposed APE is required to account for this scenario as part of the undertaking. An agency's APE should be focused on the geographic area where an undertaking may directly or indirectly effect historic properties with the goal of seeking to assess those reasonably *foreseeable effects* caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative (emphasis added). This assessment should be conducted with an understanding that the intent of the undertaking, which will allow for the evaluation of the likelihood of reasonably foreseeable effects. ACHP understands that it is not the intent of the proposed undertaking to design the retention structure with the likelihood of failure; moreover, it is our undertaking that the Corps has concluded or is concluding a risk analysis of this likelihood to support this assessment. With that in mind, the breach of the retention structure would not appear to be a reasonably foreseeable effect of the proposed undertaking. The ACHP requests the Corps to share with consulting parties the results of any such analysis as it responds to the concerns raised concern breach and the APE.

### **Cumulative Effects**

The ACHP encourages the Corps to consider potential indirect and cumulative effects that may be associated with the proposed undertaking. At this time, the Corps' documentation concerning effects and the PA appear focused solely on direct effects of the undertaking on historic properties. While the ACHP is supportive of how the PA seeks to address direct effects, the Corps consultation should also consider indirect and cumulative effects resulting from this restoration project with respect to the broader Everglades Restoration.

### **Additional Comments**

Additionally, the ACHP agrees with the recent comments provided by both the SHPO and the STOF THPO concerning the PA's administrative provisions and professional qualifications. Further, we support the STOF THPO's recommendations that the stipulation for Historic Property Treatment Plans (HPTPs) be revised to allow for "creative or non-traditional ways" to resolve adverse effects when the excavation of burial locations might occur. We further recommend that this approach be incorporated into the overall development of HPTPs. The ACHP has provided additional editorial comments directly on the current draft PA (enclosed). To help move the process forward, we recommend the Corps respond formally to the comments provided by the consulting parties as well as the items discussed above and those provided directly to the draft PA.

We look forward to assisting the Corps in this consultation and working to carry out its Section 106 compliance responsibilities. We appreciate your consideration of our comments and recommendations on these issues, and look forward to your response as we move forward.

If you have any questions, please contact Mr. Christopher Daniel (202) 517-0223, or via e-mail at [cdaniel@achp.gov](mailto:cdaniel@achp.gov).

Sincerely,

A handwritten signature in black ink that reads "Tom McCulloch". The signature is written in a cursive style with a horizontal line above the first name.

Tom McCulloch, Ph.D., R.P.A.  
Assistant Director  
Federal Property Management Section  
Office of Federal Agency Programs

Enclosure

**From:** [Chris Daniel](#)  
**To:** [Moreno, Meredith A CIV USARMY CESAJ \(US\)](#)  
**Cc:** [Paul N. Backhouse](#); [annemullins@semtribe.com](#); [bradleymueller@semtribe.com](#); [isham.t@sno-nsn.gov](#); [jason.aldridge@dps.myflorida.com](#); [Moreno, Meredith A CIV USARMY CESAJ \(US\)](#); [Terry Clouthier](#); [Juan Cancel](#); [Chris Daniel](#); [Tom McCulloch](#)  
**Subject:** [Non-DoD Source] RE: LOWRP Programmatic Agreement ACHP Log Number: 013978  
**Date:** Thursday, October 24, 2019 4:54:23 PM  
**Attachments:** [2019-10-24 LOWRP draft PA 23 Sept 19 \(ACHP comments\).pdf](#)

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Meredith,

Please find attached the ACHP's comments on the current final draft of the PA. While the majority of my comments are minor and can easily be addressed, I have some critical questions about the APE definition and potential effects to properties. I'm happy to discuss these in greater detail.

Sincerely,

Christopher Daniel  
Program Analyst  
Advisory Council on Historic Preservation  
202.517.0223 (Office & Mobile)  
[cdaniel@achp.gov](mailto:cdaniel@achp.gov)

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-----Original Message-----

From: Moreno, Meredith A CIV USARMY CESAJ (US) [<mailto:Meredith.A.Moreno@usace.army.mil>]  
Sent: Friday, September 27, 2019 3:45 PM  
To: e106  
Cc: Chris Daniel  
Subject: LOWRP Programmatic Agreement ACHP Log Number: 013978

Please find the LOWRP PA final draft and associated correspondence for your file. Please feel free to call or email with any questions.

Thanks,

Meredith A. Moreno, M.A., RPA  
Lead Archaeologist  
Planning Division, Environmental Branch  
Jacksonville District, US Army Corps of Engineers  
Office: 904-232-1577  
Mobile: 904-861-9967

**From:** [David Echeverry](#)  
**To:** [Dunn, Angela E CIV USARMY CESAJ \(USA\)](#)  
**Cc:** [Moreno, Meredith A CIV USARMY CESAJ \(US\); THPO Compliance](#)  
**Subject:** [Non-DoD Source] USACE Lake Okeechobee Watershed Restoration Project Programmatic Agreement  
**Date:** Thursday, October 31, 2019 3:57:25 PM  
**Attachments:** [image005.png](#)

**SEMINOLE TRIBE OF FLORIDA  
TRIBAL HISTORIC PRESERVATION OFFICE  
AH-TAH-THI-KI MUSEUM**

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October 31, 2019

Ms. Angela E. Dunn  
Chief Environmental Branch, Planning and Policy Division  
Department of the Army  
Jacksonville District Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, FL 32207-8915

Subject: USACE Lake Okeechobee Watershed Restoration Project Programmatic Agreement  
THPO Compliance Tracking Number: 0029311

Dear Ms. Dunn,

Thank you for contacting the Seminole Tribe of Florida – Tribal Historic Preservation Office (STOF-THPO), Compliance Section regarding the USACE Lake Okeechobee Watershed Restoration Project Programmatic Agreement (PA). The proposed undertaking referenced in the PA does fall within the STOF Area of Interest. While the Tribe does not wish to be a Concurring Party to the PA or to provide detailed recommendations for improving the document, we would like to make the following more general comments.

- Deferring cultural resource studies to a later time in the planning process reduces the ability to use information about the location and nature of culture resources to more effectively guide the placement of project features or to avoid impacting any historic properties that might be present. As the project advances it becomes increasingly difficult to re-engineer or move features. And,
- The schedule limitations that the USACE cites as partial justification for the necessity of a PA are self-imposed and under the control of the USACE.

We look forward to continuing our Section 106 consultation with the USACE on this project. Please feel free to contact us with any questions or concerns.

Respectfully,

David Echeverry, Compliance Review Supervisor  
STOF-THPO, Compliance Review Section  
30290 Josie Billie Hwy, PMB 1004  
Clewiston, FL 33440  
Office: 863-983-6549 ext 12213  
Email: [davidecheverry@semtribe.com](mailto:davidecheverry@semtribe.com)  
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