

Lake Okeechobee Regulation Schedule (“LORS”)

Governing Board Meeting
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Legal Framework for C & SF Flood Control Project

- Florida Statutes
- U.S. Congressional Acts
 - House Documents
 - Water Resource Development Acts
- Water Control Plans

Legal Framework for C & SF Flood Control Project

- Florida Statutes authorize the District to:
 - Control the level of waters in all canals, lakes, and other waterbodies owned, maintained, or controlled by the District
 - Sections 373.086 and 373.103, F.S.
 - Act as “local sponsor” of the Project
 - Section 373.103, F.S.
 - U.S. Congressional Acts
 - Permit consumptive use of water

Legal Framework for C & SF Flood Control Project

- U.S. Congressional Acts:
 - 33 U.S.C. s. 701c requires the local sponsor to agree to: "...maintain and operate all works ... in accordance with regulations prescribed by the Secretary of the Army...."
 - House Document 643 (1949)
 - Original Project authorization & multiple purposes
 - Lake Okeechobee Project works retained by Army
 - Requires local sponsor compliance with Army regulations

Legal Framework for C & SF Flood Control Project

- U.S. Army Corps of Engineers Water Control Plans
 - Regulation schedules included
 - Adopted per NEPA process
 - Lake Okeechobee – management zones
 - Broad “Operational Band”
 - “Beneficial Use Sub-Band”
 - “Water Shortage Management Band”

Legal Framework for C & SF Flood Control Project

- **“Beneficial Use Sub-Band”**
 - Releases for water supply, including estuarine uses, may occur
 - Adaptive Protocols referenced
- **“Water Shortage Management Band”**
 - Water supply releases may occur in any band
 - Reference District discretion to restrict supply releases

Legal Framework for C & SF Flood Control Project

- **Operational Flexibility (Section 7-16)**
 - Allows low volume releases, including estuarine, above Water Shortage Band
 - Releases are beyond those specifically evaluated in EIS
 - Must balance missions of C&SF Project congressional authority
 - Must be “consistent with intent” of LORS
 - Decision made on unique factual circumstances
- **Corp’s decision**

“Adaptive Protocol” Document

- Developed under prior Regulation Schedule
- 2008 LORS references Adaptive Protocol may be used in making decisions on low volume lake releases in Beneficial Use Sub Band
- Purpose of Adaptive Protocols:
 - “Process” for input to Corps decision-making
 - Not a rule or order
 - Corps authority retained