



## United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

May 8, 2015

Mr. Don Medellin  
South Florida Water Management District  
Coastal Ecosystems Section  
3301 Gun Club Road  
West Palm Beach, Florida 33406

Dear Mr. Medellin:

The United States Department of the Interior (Department) appreciates the opportunity to comment on the proposed water reserved for the protection of fish and wildlife contained within the Upper Chain of Lakes, Headwater Revitalization Lakes, and the Kissimmee River and commends the South Florida Water Management District (SFWMD) for moving forward with this effort.

This reservation rule is very important to the Department. The Department generally supports the SFWMD's proposal for reserving water in the Headwaters Revitalization Lakes and the Kissimmee River. However, we are concerned that not enough water has been reserved in the Upper Chain of Lakes; inadequate water reserved in the Upper Chain of Lakes may not only negatively affect the wildlife in those lakes, but also may have negative downstream effects.

### **Background:**

Parallel to the reservation process, the Central Florida Water Initiative (CFWI) is developing its Regional Water Supply Plan; the purpose of which is to provide options to meet water supply demands in the CFWI area through 2035. In the Department's February 19, 2014, letter commenting on the CFWI Regional Water Supply Plan, the Department stated that the SFWMD should adopt a reservation for the Upper Chain of Lakes, Headwaters Revitalization Lakes, and the Kissimmee River and its Floodplain *before* implementing any surface water projects in the Upper Kissimmee Basin.<sup>1</sup> We are pleased that the CFWI is following the recommendation of the Department and is not proposing to plan or implement surface water projects in the Kissimmee Basin until the SFWMD develops a reservation for the protection of fish and wildlife. Furthermore, we understand once the reserved water is identified and the reservation is finalized, water over and above the reservation amounts *may* be identified as available for CFWI Projects (as identified in the CFWI Regional Water Supply Plan) and other consumptive uses.

### **Reservation Objectives:**

The SFWMD's stated reservation objectives are to:

- Protect water for the authorized Kissimmee River Restoration Project;
- Ensure a healthy and sustainable native fish and wildlife community;
- Maintain C&SF Project operations consistent with federal regulation schedules;
- Protect water supply inflows to Lake Okeechobee and the Greater Everglades ecosystem (natural and human uses); and

<sup>1</sup> The Department's 2014 letter is attached and made part hereto and incorporated by reference; the letter contains a list of federally endangered and threatened species and state species of special concern and threatened species located in the reservation area. The 2014 letter also describes the Upper Kissimmee Basin Planning Area as including the site of the United States Fish and Wildlife Service's (Service) recently established Everglades Headwaters National Wildlife and Conservation Area.

- Support solutions for Central Florida's water supply needs, consistent with other objectives.

The Department agrees that efforts to support Central Florida's water supply needs must be consistent with all of the other objectives set forth above.

**Restoration Water Needs:**

Water from the reservation area within the SFWMD boundaries is important to meet water needs in South Florida for both natural and human uses. The reservation water bodies together form the headwaters of the Kissimmee-Okeechobee-Everglades System. The outflow of surface water from the Kissimmee Chain of Lakes is to the Kissimmee River; the Kissimmee River is the largest tributary to Lake Okeechobee, accounting for approximately 50% of inputs. Water moving south from Lake Okeechobee is crucial to rehydrating the remnant Everglades. The Department is concerned that not enough water is being reserved in the Upper Chain of Lakes and that future consumptive use projects utilizing the water identified as over and above the reservation will have a negative effect on the considerable federal and state investment in Everglades Restoration by allocating to consumptive use water necessary not only for Kissimmee River Restoration but also for the Comprehensive Everglades Restoration Project (CERP).

The Department believes that water budgets should be developed for flows from the Upper Chain of Lakes to the Headwater Revitalization Lakes, for flows from the Headwater Revitalization Lakes to the Kissimmee River, and for flows from the Kissimmee River to Lake Okeechobee. These water budgets should contain adequate water to ensure that the regulation schedules in the Headwaters Revitalization Lakes are met, that the Kissimmee River Restoration goals are met, and that the quantity and timing of water to Lake Okeechobee is adequate to meet the water needs of the environment and Everglades Restoration. Such water budgets should inform the development of the reservation.

**Period of Record Utilized:**

The Department shares the concerns of the United States Fish and Wildlife Service (Service) over the period of record used in developing the proposed reservation. In relation to snail kite usage specifically, it excludes data from years having the highest level of kite nesting on the Kissimmee Chain of Lakes, which increased dramatically beginning in 2007 and has remained much higher than historical usage in every year since 2007.

**Water Reservation Hydrograph:**

Additionally, the Department shares the Service's concerns that a steep straight line method to connect the seasonal high stage to the seasonal low stage to develop the water reservation hydrograph is not adequately protective of fish and wildlife. A further explanation of this method is necessary. Also, the Service has indicated its desire to work with the SFWMD to establish more protective stage elevation reservation lines.

**Ephemeral Source Permits:**

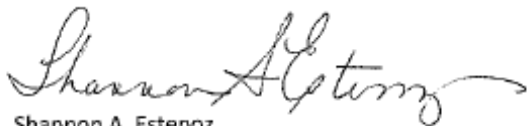
A new category of consumptive use permit has been created to accompany the reservation for the Upper Chain of Lakes. Under this type of permit the water available for allocation does not have a 1 in 10 level of certainty. It is described by the SFWMD as a "unique, ephemeral source". Water will be available for withdrawal as determined by the SFWMD on a daily basis, consistent with the reservations. The SFWMD has proposed additional criteria for permit applications from these sources; the additional criteria attempt to place further controls on the use of water from these ephemeral sources.

Florida Statutes provide for the ability to review and revise reservations. If it is later determined that insufficient water was reserved in the Upper Chain of Lakes, the Department is concerned that it will be difficult to revise the reservation and either decrease or eliminate water available under these ephemeral source permits once infrastructure has been built. Also, the Department is concerned that after the infrastructure for storage has been constructed there will be requests from the permit holders to withdraw more water from the source than contemplated by the ephemeral source permit and pressure placed on the SFWMD to allow withdrawal of additional water.

Based on our own concerns and because this is a new, untested category of consumptive use permit, a more detailed explanation of this type of permit is necessary before the reservation is finalized. An example from application to approval, including the basis of review, would be helpful in addition to a discussion of how the permit allocation would be implemented in relation to the stage elevations. The Department recommends that the SFWMD convene a workshop similar to those held during the development of the B-List and Restricted Allocation rules, to provide for dialogue about this new permit category.

Thank you for the opportunity to provide comments on the proposed reservation. I and my staff are available for any follow up discussions that the SFWMD may want to convene. If you have any questions regarding this letter, please contact me or Joan Lawrence at 786-390-8087.

Sincerely,



Shannon A. Estenoz  
Director, Office of Everglades Restoration Initiatives  
United States Department of the Interior