DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

05 MAR 2002

CECC-G/CECW-PM

MEMORANDUM FOR Commander, South Atlantic Division (CESAD-CM-CM)

SUBJECT: Water Resources Development Act (WRDA) of 2000 Implementation Guidance, Comprehensive Everglades Restoration Plan (CERP), Section 601 (h)(5), Savings Clause

1. The following is implementation guidance regarding the Savings Clause under CERP, Section 601 (h)(5) of WRDA 2000. This issue is identified in the "CERP Implementation Guidance Status" from SAJ as issue SAJ #16.

2. The text of relevant portions from Title VI of WRDA 2000 is enclosed.

3. Implementation schedules for the plan and specific Project Implementation Reports need to take into account new water sources to ensure this provision is followed. The schedules need to include consideration of actual performance of projects, including technological and other possible uncertainties, in the adaptive management approach and in planning contingencies. All uses of water, including those listed under Section 601(h)(5), must be specifically addressed. Project Implementation Reports must include sufficient analysis to assure that existing levels of service for flood protection that were in existence on the date of enactment of the Act and in accordance with applicable law are not reduced. The district should incorporate these requirements into the Master Program Management Plan and ensure that the requirements of this provision are incorporated into ongoing Feasibility Studies and Project Implementation Reports. In addition, the plan will not affect existing Seminole Tribal compacts.

4. If you have further questions, please call Howard Goldman (CECC-G) at 202-761-8544 or Let Mon Lee (CECW-PM) at 202-761-4527.

FOR THE COMMANDER:

Raleigh H. Leef

Encl

RALEIGH H. LEEF
Acting Chief, Planning and Policy Division
Directorate of Civil Works

TITLE VI--COMPREHENSIVE EVERGLADES RESTORATION

SECTION 601 (h)(5) SAVINGS CLAUSE-

(A) NO ELIMINATION OR TRANSFER- Until a new source of water supply of comparable quantity and quality as that available on the date of enactment of this Act is available to replace the water to be lost as a result of implementation of the Plan, the Secretary and the non-Federal sponsor shall not eliminate or transfer existing legal sources of water, including those for--

(i) an agricultural or urban water supply;
(ii) allocation or entitlement to the Seminole Indian Tribe of Florida under section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e);
(iii) the Miccosukee Tribe of Indians of Florida;
(iv) water supply for Everglades National Park; or
(v) water supply for fish and wildlife.

(B) MAINTENANCE OF FLOOD PROTECTION- Implementation of the Plan shall not reduce levels of service for flood protection that are--

(i) in existence on the date of enactment of this Act; and
(ii) in accordance with applicable law.

(C) NO EFFECT ON TRIBAL COMPACT- Nothing in this section amends, alters, prevents, or otherwise abrogates rights of the Seminole Indian Tribe of Florida under the compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District, defining the scope and use of water rights of the Seminole Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e).