United States Senate

WASHINGTON, DC 20510-0908

November 2, 2020

The Honorable David Ross
Assistant Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Assistant Administrator Ross:

We write in strong support for the State of Florida's request to administer a Clean Water Act (CWA) Section 404 program within its state boundaries.

If approved, Florida would be only the third state—and the first in more than 25 years—to assume a Section 404 program, representing an important reinvigoration of the CWA's cooperative federalism structure. Assumption can streamline permitting processes and reduce duplication of effort and combined expenditures by state and federal authorities. As you know, Florida already has primary responsibility for other assumable programs codified in landmark federal environmental laws like the CWA and Clean Air Act.

We believe that Florida's assumption of the Section 404 program will improve environmental protection outcomes and will meaningfully advance Everglades restoration timelines. Florida's Department of Environmental Protection is best positioned to utilize local knowledge, scientific expertise, and robust stakeholder engagement to assess the potential impacts of permitted activities, delineate protective conditions for permitted activities, and set suitable compensatory mitigation requirements. This is especially true for protection of Florida's threatened and endangered species, and their habitats, which will benefit from Endangered Species Act (ESA) consultations at the front end of this process, and through site-specific technical assistance under the terms and conditions of a forthcoming programmatic Biological Opinion and Incidental Take Statement as necessary.

We strongly urge EPA's prompt approval of Florida's request to assume a Section 404 program. Working together, the State of Florida and the administration can highlight an important pathway for other states to follow that meet Congressional intent and deliver strong wetlands protection and improved regulatory certainty for landowners.

We appreciate your thorough consideration of the State of Florida's request.

Sincerely,

Marco Rubio
U.S. Senator

Rick Scott
U.S. Senator