UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

Mr. Sean Junker, President
Northeast Florida Builders Association
6747 Southpoint Parkway
Jacksonville, Florida 32216

Dear Mr. Junker:

Thank you for your October 10, 2019 letter regarding Florida's ongoing efforts to assume the Clean Water Act (CWA or Act) Section 404 permitting program. I am responding to your letter on behalf of Administrator Wheeler.

The U.S. Environmental Protection Agency (EPA) supports state and tribal efforts to assume the CWA Section 404 permitting program, and we have been actively encouraging such efforts by working to remove barriers to assumption. Your letter discusses addressing potential impacts to threatened and endangered species consistent with the CWA Section 404(b)(1) guidelines, which is one of several components that states need to include in a CWA Section 404(g) program. In August 2020, I signed a memorandum clarifying that consultation under Section 7 of the Endangered Species Act (ESA) Section 7 is required if a decision to approve a state or tribal CWA Section 404 program may affect ESA-listed species or designated critical habitat. Providing this policy clarification addresses one barrier to assumption identified by some stakeholders.

We appreciate Florida's efforts to date in administering the Environmental Resource Permits program to manage discharges of dredged and fill materials into Florida's waters, and the State's desire to build on that program in assuming the CWA Section 404 permitting program. The Agency is currently reviewing Florida's assumption request and is consulting with the U.S. Fish and Wildlife Service under Section 7 of the ESA.

Again, thank you for your letter. If you have any further questions, please feel free to contact Kathy Hurld at hurld.kathy@epa.gov or (202) 566-1269.

Sincerely,

David P. Ross
Assistant Administrator