RUN OF SHOW FOR:

Florida's Request to Assume Administration of a Clean Water Act Section 404 Program
Virtual Hearings via GoToWebinar
October 21 and 27, 2020

DRAFT: OCTOBER 18, 2020

Contents

[TOC \o "1-3" \h \z \u]

Background and Pre-Meeting Information

Key EPA Personnel

- Jeannine Gettle, Director, EPA Region 4 Water Division
- Rosemary Calli
- Thomas Mcgill
- Matt Hicks
- Kathy Hurld
- Kavita Nagrani
- Alexis Wade
- Christopher Parker
- Mita Ghosh
- Simma Kupchan
- Jeffrey Speir
- James Morgan
- Whitney Beck
- Michael Creswell
- Erica Jones
- Kelly Laycock

Key ERG Personnel

- Jan Connery, facilitator
- Meredith Outterson, webinar support

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Joining the Webinar

All key personnel are encouraged to join the webinar 20 minutes prior to the start time to support an on-time start and be available for any last-minute clarification or coordination, as needed. Please use the link to the webinar provided in the GoToWebinar email.

Key Personnel "Rights" in GoToWebinar

All key personnel will be designated as "panelists" during the webinar. Therefore, each person will be able to mute and unmute themselves, turn their video on and off, and engage in the chat function, which will be private to key personnel and not visible to members of the public.

- All EPA personnel should be sure to keep their microphones on mute unless they will be speaking.
- Jeanneanne will use video during her opening and closing remarks. Jan Connery will use her video during her opening remarks. After that, slides will be displayed, and all video should be turned off.

Other Logistics

- Note that all public participants will be muted. During the comment process, Meredith will unmute each speaker so they can make their comment and then remute them when their comment is concluded.
- Meredith and Jan will be responsible for monitoring which speakers are present or not present. Jan will adjust the speaker order accordingly.
- The chat function is private and can only be seen by those designated by Meredith as "panelists." All members of EPA's listening team, as well as Meredith and Jan are designated as panelists. The chat function will be helpful for behind-the-scenes conversations as needed — for example to let Jan know whether EPA has any questions of clarification for each speaker and to discuss whether it may make sense to take a break to get back on schedule (in the event that we are ahead of schedule).

Schedule

Pre-Meeting

- 8:30 AM: ERG team (Meredith) opens up the webinar
- 8:30 AM: ERG team displays Slide #1 on screen
- 8:40 AM: ERG team all present on webinar
- 8:40 AM: EPA personnel all present on webinar
- 8:40 to 9 AM, ERG team and EPA personnel can communicate via the webinar as needed to discuss any last-minute questions, etc. Webinar audio will not be available to the public until 9 AM.

Public Hearing Start

- The webinar will start precisely at start time, at which point Jan will display Slide 2 and Jeanneanne will begin her remarks.

I. Opening Remarks (Jeaneanne) (~ 8 minutes at current length)

Introductions

[JAN DISPLAYS SLIDE YY]

[JEANEANNE TURNS HER VIDEO ON AND CONTINUES TO DISPLAY ANY ADDITIONAL SLIDES AS NEEDED]

- Good [morning/evening]. I am Jeaneanne Gettle, Director of the Water Division at the U.S. Environmental Protection Agency's Regional Office in Atlanta, GA. Welcome and thank you for joining this public hearing concerning Florida's request to assume administration of a Clean Water Act Section 404 Program.

- We recognize that the natural resources in Florida are critically important for the state and for the nation. We understand that many of you are concerned about how these resources are managed through the Clean Water Act Section 404 Program and are holding this public hearing to provide the opportunity to hear your comments.

[JAN DISPLAYS SLIDE YY]

- Our agenda today is very simple. I will begin by making a brief remarks to provide background and context. Then our facilitator will explain the comment process and we will then start the public comment process in approximately 15 minutes.

  I am here virtually with several EPA colleagues. They and I will be listening to your comments throughout this hearing, so I would like to introduce them to you. As I say their name and role at EPA, they will have their video on. [[JAN DISPLAYS SLIDE YY] EACH PERSON TURNS THEIR VIDEO ON AND THEN OFF SO THEY ARE ONLY VISIBLE DURING THE TIME JEANNEANNE INTRODUCES THEM]

  - [name, title]
  - Rosemary Calli
  - Thomas Mcgill
  - Matt Hicks
  - Kathy Hurld
  - Kavita Nagrani
  - Alexis Wade
  - Christopher Parker
  - Mita Ghosh
  - Simma Kupchan
  - Jeffrey Speir

- James Morgan
- Whitney Beck
- Michael Creswell
- Erica Jones
- Kelly Laycock

Background and Context on CWA 404(g) Assumption

- To set the stage for this hearing, I'd like to provide some background and context. On August 20, 2020, the U.S. Environmental Protection Agency (EPA) received from the Governor of the State of Florida, a complete program submission for regulating discharges of dredged or fill material into waters within the jurisdiction of the State in accordance with the Clean Water Act, or CWA. Pursuant to CWA Section 404(h) and EPA's implementing regulations, EPA scheduled two public hearings—on October 21 and 27—and opened a 45-day comment period. This is the [first/second] of those hearings. EPA is also initiating a programmatic consultation under Section 106 of the National Historic Preservation Act (or NHPA) and is soliciting comments pursuant to NHPA implementing regulations during the 45-day comment period.

- The EPA has 3 primary roles in the 404(g) assumption process. Prior to assumption, the EPA works with States or Tribes to enhance their state program capacity and capability through mechanisms such as Wetland Program Development Grants. When a state or tribe requests to assume a program, the stage we are currently in, the EPA's role is to evaluate that request and to approve or disapprove based on factors I will speak about in a moment. The third role of the EPA is when a program is assumed. At this point our role becomes one of oversight by coordinating federal comments, reviewing modifications, and if necessary, withdrawing program approval.

- In order to approve a state's or tribe's assumption of a Clean Water Act Section 404 Program, the EPA must find that the program is consistent with and no less stringent than the requirements found in the Clean Water Act and implementing regulations. The assumed program must have equivalent scope of jurisdiction. It must regulate at least the same activities. It must provide sufficient public notice and allow for public participation. The program must also ensure compliance with the regulations known as the 404(b)(1) Guidelines and have adequate enforcement authorities.

Comment and Decision Process

- The purpose of todays' hearing is for EPA to listen to oral comments regarding Florida's request to assume administration of a Clean Water Act Section 404 Program. Any specific information you may have with regard to Florida's assumption of a program and the potential impact to aquatic resources in Florida would be particularly helpful. During this hearing, my EPA colleagues and I may occasionally ask a question, or respond to a question, of clarification, but we will not otherwise be engaging with or responding to commenters. Our role here is to listen.

- This hearing is being recorded for transcription purposes, and that transcription will become part of the official administrative record for this request. In addition, you can continue to provide written comments until November 2, 2020, as described in EPA's Federal Register Notice on regulations.gov. If you are making an oral comment today, and would like to also provide that to us as a written comment or send us any additional information or attachments associated with your oral comment, then we certainly encourage you to do so by the November 2, 2020, public comment deadline.

- Following the close of the public comment period, EPA will review and consider all comments received before we make a final decision about this request. Oral and written comments will be given equal consideration. As part of that process, EPA will prepare a responsiveness summary in which we provide EPA responses to the significant comments received during the comment period.

- I want to emphasize that no decision on Florida's request has been made. After considering all comments, data, and information received through November 2nd, EPA's Regional Administrator will make a final decision by December 17th.

- If EPA approves the State's 404 program, we will publish notice of this decision in the Federal Register, along with the Agency's responsiveness summary of significant comments.

- This public hearing is our opportunity to hear directly from you. Thank you again for being here and participating in this process. I will now turn the floor over to Jan Connery, the facilitator for this hearing, to describe the oral comment process we will follow today and to moderate this hearing.

II. Public Hearing Process (Facilitator) (~ 5 minutes)

- Thank you, Jeanneanne. My name is Jan Connery. I am with ERG, a contractor to EPA. I will be serving as your facilitator for this hearing and I am working with my colleague, Meredith Outterson at ERG, who is our webinar coordinator for this hearing.
- I see that [get # live from webinar] members of the public have joined us for this hearing. [final #] of you have signed up to make an oral comment and many others of you are here to listen to today's comments. Welcome everyone and thank you for participating.
- As Jeanneanne said, the purpose of this meeting is for EPA to hear oral public comments, so I will start by describing the comment process, in two parts. First, I will describe the order in which we will take commenters. Then, I will provide details of the process we will use for each comment.
- Order of commenters:
    - We will first hear comments from XX public officials. After that, we will take comments in the order that each of you registered to comment.
    - Commenters are organized into XX time blocks. Everyone who has pre-registered to comment should have received an email recently from Meredith at ERG, notifying you which group you are in and your speaker number. As we get to each time block, I will display the names of commenters in that time block in the order they will speak, so everyone at this hearing will be able to clearly know who is speaking at each time and who is on deck to speak next.
    - If a listed commenter is not available at the time they're called on, I will move to the next person on the list. If anyone who is not available joins us later, I will fit them in as soon as possible after that so we can hear their comment.
    - If we get ahead of schedule, as sometimes happens during virtual hearings, we may take short breaks. If we do that, I will provide clear information to you about when we will reconvene.
    - This hearing is scheduled to run for up to three hours. To the extent we have time at the end, after taking all pre-registered speakers, we will take additional comments from anyone who is interested and did not pre-register to comment as time allows. I will provide details about that when the time comes.
    - All commenters during this hearing, whether pre-registered or added as time allows, will be following the comment process I will now describe to you.

- Comment process.
    - To minimize background noise, we have all attendees muted right now.

- I will call on each commenter when it is your time to speak. At that point, Meredith will unmute your line. You will know you have been unmuted because you will hear an automated voice telling you that.
- I'll ask you to start by stating your name and affiliation. If you're representing yourself, you can just indicate that.
- As noted in the Federal Register notice, each commenter will have a maximum of five minutes to speak. After you have stated your name and affiliation, I'll then start an electronic timer that you will be able to see in the bottom right of the webinar screen. If you are commenting, please keep an eye on that timer if you can so that you will know when you are approaching five minutes.
- As a matter of fairness for all commenters, it's important for each of you to stay within that five-minute limit, so please be sure to wrap up by then. If you have more to say that you're not able to fit into that time limit, as Jeanneanne said, you are welcome and encouraged to submit the additional information as a written comment no later than the November 2 public comment deadline.
- Please stay on the line after you wrap up. Occasionally, EPA may have a question of clarification about a comment. If so, Jeanneanne or someone else on the EPA listening team will ask the question at that point and you may respond. When the clarification is concluded, we will mute your line and proceed to the next commenter using the same process.
- In the email that each commenter received from Meredith Outterson at ERG recently, we recommended that commenters connect by phone during the time they are making their comment, as that often offers a better audio quality. Please consult that email for directions on how to do that. Be sure to join by phone at least 20 minutes prior to the anticipated time of your comment.
- If you experience or we observe any audio issues, Meredith will mute your line and send you a message to suggest adjustments to your audio. We will give you a chance to make your comment as soon as we can after we have resolved the issue.

- Lastly, if any of you are experiencing any technical difficulties whether you are a commenter or a listener, or have any questions, please contact Meredith via the questions box and she will work to troubleshoot the issue.

III. Public Comments (Facilitator)

Pre-Registered Commenters

Jan Connery takes pre-registered commenters using the order and process described above, using slides as described above. Meredith and Jan will be monitoring the participant list shown on the webinar to determine which upcoming speakers are present or not present. At the end of each comment, Jan will check whether EPA has any questions of clarification — either noting that via chat or explicitly asking EPA. She will monitor time and, if the hearing is getting ahead of schedule, use the chat function to suggest that we take a break.

Speaker Group 1

- We will now hear public comments from Speaker Group 1. Our first commenter will be _____. Your line is unmuted. Please begin by stating your name and affiliation and then begin your comment. Then you will have five minutes for your comment.

Additional Commenters

Following conclusion of the comment from the last pre-registered speaker, Jan will take additional members of the public who have signed up to make a comment by raising their virtual hands.

- We have just heard from our final pre-registered commenter. The meeting is scheduled to conclude at [noon / 8 PM] Eastern time, which gives us an additional XX minutes in which we can take comments from anyone on the line now who did not preregister to make a comment but would like to comment now.
- If you would like to do that, please raise your virtual hand and I will take commenters in the order that hands are raised.
- I see that XX participants would like to make a comment. As with our preregistered commenters, you will start your comment by saying your name and affiliation and then have a maximum of five minutes for your comment. *When there is no time left for additional comments:* This concludes the time available for public comments. Thank you very much. I will now turn the floor back over to Jeanneanne for closing remarks."

V. Closing Statement (Jeaneanne)

JAN WILL DISPLAY THE FINAL SLIDE

- I would like to thank each of you for your participation in this public hearing. The comments that we received will be considered and evaluated as the EPA makes its final decision.

- As indicated earlier, following the close of the public comment period on November 2nd, 2020, EPA will review and consider all comments received during the public comment period both in writing and from the public hearings.

- If EPA approves of the State's 404 program, a notice of decision will be published in in the Federal Register. EPA will also prepare a responsiveness summary of significant comments received during the comment period and EPA's response to these comments.

- Additional information regarding these procedures is available by contacting Mr. Kelly Laycock at (404) 562-9262 or [HYPERLINK "mailto:404Assumption-FL@epa.gov"]

- Again, I thank you for your participation. If you have any other questions or comments, you can always reach EPA in the ways listed on the Public Notice page of EPA Region 4's website and in the Federal Register Notice at regulations.gov. This hearing is adjourned.