Transcription details:

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Transcription results:

00:04 Jeaneanne Gettle: Good evening. I am Jeaneanne Gettle, director of the Water Division at the US Environmental Protection Agency's regional office in Atlanta, Georgia. 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 to each of you, your communities, and to the state of Florida. Our agenda today is quite simple. I will begin by making 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. We 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 show their video. So let me introduce them now: Rosemary Calli, Tom McGill, Matt Hicks, Kathy Hurld, Mita Ghosh, JT Morgan-

01:42 --Whitney Beck, Michael Creswell, and Kelly Laycock. They will all be listening, but they will not have their cameras on as we continue with the public hearing. I will have my camera on and I may look down at times while I take notes. To set the stage for this hearing, I'd like to provide some background and context. On August 20th, 2020, the United States Environmental Protection Agency received from the governor of the state of Florida a complete program submission for regulating discharges of dredged or film material into waters within the jurisdiction of the state in accordance with the Clean Water Act. Pursuant to the Clean Water Act Section 404(h) and EPA's implementing regulations, EPA opened a 45-day comment period, which ends on November 2nd, 2020. As part of this process, EPA has also scheduled two public hearings: the one today, and we had one last week on October 21st. This is the second of the two hearings. In addition to our review of the package submitted by Florida, EPA also initiated 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, ending November 2nd, 2020.

03:24 EPA has three primary roles pursuant to Section 404(g) of the Clean Water Act. The first role is to work with the states or tribes to enhance their program capacity and capability through mechanisms such as Wetland Program Development Grants and technical assistance. The agency's second responsibility is to review requests by states or tribes to assume administration of a Clean Water Act 404 permitting program. This is the stage we are currently in, relative to Florida's request. Under the Clean Water Act, EPA must evaluate the request and to approve or disapprove the request based on the factors, I will speak about in a moment. The third role for EPA is that of oversight. Whenever a state or tribe assumes a program, EPA retains an oversight role. For purposes of the Clean Water Act Section 404, that would generally entail coordinating federal comments; reviewing programmatic 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 associated implementing regulations. The assumed program must have equivalent scope of jurisdiction, meaning it covers all waters of the United States not retained by the United States Corps of Engineers; 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 Clean Water Act Section 404(b)(1) guidelines and have adequate enforcement authorities.

05:27 The purpose of today's hearing is for EPA to listen to comments regarding Florida's request to assume administration of a Clean Water Act Section 404 program. Today, EPA's role is to listen. So while during this hearing my EPA colleagues and I may occasionally ask a question or respond to a question of clarification, we will not otherwise be engaging with or responding to commenters. 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 2nd, 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 2nd, 2020 public comment deadline.

06:39 Following the close of the public comment period, EPA will review and consider all comments received, as well as the complete submittal from Florida 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 which will 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 at this time. After considering Florida's submittal, all comments, data, and information received through November 2nd, EPA's regional administrator, Mary Walker, will make a final decision on or before December 17th, 2020. 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. If EPA disapproves the state's 404 program, we will notify the state of the reasons for the disapproval, and of any revisions or modifications to the state's program which are necessary to obtain approval. 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, the facilitator for this evening, to describe the oral comment process we will follow today and to moderate this hearing. Thank you. Jan.

08:25 Jan Connery: Thank you, Jeaneanne. Hello, everyone. As Jeaneanne said, I'm Jan Connery. I'm with ERG, a contractor to EPA providing facilitation and logistical support for this hearing. I'm working with my colleague, Meredith Outterson, at ERG, who is our webinar coordinator. I see that we have over 90 people who've joined us right now, and probably some others will be in the next three hours. And we also have 34 folks who've signed up to make an oral comment, with many others of you here to listen to the comments during this hearing. So, as Jeaneanne said, the purpose of this hearing is for EPA to listen to the oral public comments. So I'm going to describe the comment process that we'll be using and then we'll proceed directly to the public comments. So, first, I'm going to talk about speaker order. We're going to hear from two public officials to start with, and after that, we're going to take comments in the order that each of you registered to speak. We've organized commenters into six time blocks. Everyone who pre-registered to comment should have received an email this weekend - or in some cases, Monday, or even Tuesday - from Meredith at ERG, notifying you about your speaker group and your speaker number within that group. Each commenter will receive a chat message shortly before your speaker group is called. So that way, you'll know your time is coming up very shortly. As we proceed to each group, I'm going to be displaying the name of commenters in the time block on-screen, in the order that they're going to speak. So that way, all attendees to this webinar can clearly know who is speaking each time and who's on deck to speak next. If a listed commenter is not available when I call on them, I'm going to move to the next person on the list. And then, if that person joins us later, we will fit them in as soon as possible after they join us so that we can hear their comment. All commenters during this hearing will be following the same process.

10:49 So when it's your turn to speak, I'm going to be calling your name, and then Meredith will unmute your line at our end. Right now, we have everyone muted by default so that we can

minimize background noise. So Meredith will unmute you, but, also, please make sure you're unmuted at your end. Most often, when I call on someone and we can't hear them, it's because you're muted at your end and you just have to click an unmute button there. So I will start-- I'll ask you to start by stating your name and affiliation. And if you're representing yourself, you can just say that. As noted in the Federal Register Notice about this hearing, every commenter will have up to five minutes to speak. So after you say your name and affiliation, I will start an electronic timer that you will see in the bottom-right of your screen, so you'll be able to know how your time is doing. Please keep an eye on that so that as you approach the five minute mark, you know you'll need to wrap up pretty soon. And as a matter of fairness to all commenters, please do respect that time limit. If you have more to say that you weren't able to fit into your comment, as Jeaneanne said, you're welcome to provide that in a written comment as part of the written comment process by the November 2nd public comment deadline. So after you've finished your comment, please stay on the line. Occasionally, as Jeaneanne said, EPA may have a question of clarification about a comment. And if so, Jeaneanne will ask that question, and at that point, you may respond. And then, when the clarification is concluded, Meredith will mute your line and we'll proceed to the next commenter and use the same process for every commenter.

12:41 There are just a few technical details we'd like you to know about if you're commenting. As noted in the email that Meredith sent you, for best audio quality, a headset is great, if you happen to have one. If your internet connection can be a little bit shaky, we highly recommend that you join us by phone for the period in which you'll be commenting. And instructions for doing that are provided in the email that Meredith sent you either this weekend or on Monday or Tuesday. Again, please make sure you're unmuted at your end. But if an audio issue arises, as it sometimes does, then Meredith will mute you and work with you to provide support to resolve the issue, and then we'll take your comment as soon as we can after the issue has been resolved. And for everyone on this hearing, whether you're making a comment or here to listen, if you have any technical difficulties, please use the question box to ask for help.

13:45 So before we get to the comment process, I want to note one more thing. We do have a pretty full house, just in terms of how many commenters have signed up in the time available in the three hours we have. But, that said, sometimes, commenters don't show up, never show up. And, sometimes, folks comment for less than five minutes. So, here and there, we could have a little additional time. If we do - and I can't guarantee we will or how much it will be, but to the extent that we do - then we'll be happy to take additional commenters up to five minutes each. These would be folks who hadn't pre-registered to comment but have decided that you'd like to make a comment today. The way you can signal to me that you'd like to comment is by raising your virtual hand, which you're welcome to do at any time during the hearing. Again, we can't guarantee we'll have time. But if we do, we'll fit folks in in the time that we see that hands are raised, to the extent that we can before the 8:00 PM end time for this hearing. Okay. So with that, I believe we can proceed to our first commenter. This is our first speaker group. And our first commenter is Jose Rodriguez. Meredith, do we have Jose on the line?

15:11 Meredith Outterson: Yes, we do. And, Jose, it looks like you are still muted on your end. So if you just press to unmute-- there you go.

15:21 Jose Rodriguez: Hi, everyone. May I proceed?

15:23 Meredith Outterson: Yes. Please do so. You can start.

15:28 Jose Rodriguez: I very much appreciate the opportunity to participate in the rulemaking by providing this comment. My name is Jose Javier Rodriguez. I'm a state senator representing the half a million residents of Miami-Dade who live in District 37 of the Florida Senate. My view is that this district would be negatively impacted by the FDEP's assumption of permitting authority, given the impact on our waterways and wetlands, sensitive natural areas, all areas that are important to us. And, for that reason, I express opposition to the state's proposed assumption of

Section 404 authority over dredge and fill permitting. To be clear, again, in my view, the assumption of this process by FDEP would eliminate additional scrutiny of federal law that applies to federal permit actions. And throughout Florida, but particularly in the district that I serve, the fragile and critical areas regulated by the 404 dredge and fill permits would, again, lose the high level of scrutiny that currently would come with them. And, again, I would like my opposition reflected. That is all. Thank you.

16:48 Jeaneanne Gettle: Thank you very much. Thank you. We have no clarifying questions.

16:53 Meredith Outterson: Great. Okay. In that case, we will move to the next speaker.

17:01 Michelle Diffenderfer: Hi, this is Michelle Diffenderfer.

17:03 Meredith Outterson: Yes. Please go ahead, Michelle. Start with your name and affiliation.

17:07 Michelle Diffenderfer: Yes. Michelle Diffenderfer from the law firm of Lewis, Longman & Walker, on behalf of the Seminole Tribe of Florida here today. I will not be making any comments on the record. I want to cede my time to the remainder of the public. We've already had consultation with the EPA. We appreciate you having these public hearings. Thank you.

17:26 Jan Connery: Okay, great. In that case, we will move to the next speaker and that is Kent Wimmer. Kent, please start by stating your name and affiliation, and then you'll have five minutes.

17:40 Kent Wimmer: Good evening. My name is Kent Wimmer. I'm a senior representative with Defenders of Wildlife. Defenders of Wildlife was founded in 1947. We're a national non-profit conservation organization focused solely on wildlife and habitat conservation and the safeguarding of biodiversity. Defenders of Wildlife has more than 105,000 members and supporters in Florida. Defenders will be submitting a letter describing how the DEP has failed to demonstrate how the agency can achieve the no jeopardy mandate with respect to the engagement process and protection of species under the Endangered Species Act. Specific issues to be addressed in our forthcoming letter include, number one, any state-wide, one-size-fits-all, incidental take statement resulting from consultation on the Florida program would violate the Endangered Species Act. Number two, the assumption application fails to demonstrate the DEP can comply with the no jeopardy mandate in the Section 404(b)(1) guidelines. Number three, DEP lacks the resources to implement the Florida program. Number four, DEP cannot be expected to ensure Section 404 permit compliance. And, finally, number five, the EPA has denied the public a meaningful opportunity to comment on the assumption application's effects on listed species. Thank you very much. We look forward to submitting our letter prior to the deadline.

19:32 Jeaneanne Gettle: Thank you, Mr. Wimmer. We have no questions.

19:37 Jan Connery: Great. We will move to our next speaker. That is Rachael Uhland. Rachel, please start by stating your name and affiliation, and then you'll have five minutes.

19:46 Rachael Uhland: Thank you. Can everyone hear me?

19:48 Jan Connery: Yes, we can.

19:49 Rachael Uhland: Thank you. Good evening. My name is Rachael Uhland and I'm providing testimony on behalf of Earthjustice. We oppose Florida's application to assume jurisdiction over the Section 404 program. Throughout this process, we have identified gaps in Florida's proposal, both to DEP and to EPA. We, again, ask that EPA reconsider its September 2020 determination that the application is complete, because it is not. There is public opposition to Florida's application. Most Floridians consider the environment and climate issues to be important to them. Floridians expressed their opposition to DEP's effort during the state rulemaking process. They made their voices heard, even though DEP insisted on limiting public comment to a period in March and April when Floridians were focused on their livelihoods during a pandemic. DEP

also did not answer a number of questions about its proposal, such as questions on staffing and funding, claiming that they were beyond the scope of the state-level process. They stated those gaps would be filled in when the application reached EPA, but those questions remain. Which waters are covered? How will the program be operated with no additional resources? How will the state ensure compliance with the ESA and protection of our listed species? We appreciate the opportunity to participate now in these public hearings held by EPA. However, there are issues here, too. EPA set a deadline for the public to sign up that was two weeks before the first public hearing, effectively providing very little notice for those who wish to speak. And while EPA ultimately allowed those who joined only to listen in a chance to speak, others who may have wanted to speak did not know that this would be an option and missed the opportunity to be heard at the hearing. The hearings are further undermined by the fact that DEP's application continues to be incomplete. This makes it impossible for the public to provide complete comments.

21:51 In the program description, DEP states that its proposed program will provide a streamlined permitting procedure. In other words, the state's objective is to grant permits faster. What Florida needs, however, is more scrutiny and review of permit applications that threaten our wetlands, not less. In Florida, DEP considers permit applicants to be their constituency, rather than the public and the state's natural resources. In the prior EPA public hearing, only industry interest supported assumption, and they did this with claims of delay at the federal level. But what developers see as delay actually reflects things such as vital NEPA review, public participation, analysis of listed species issues, and other elements intended to ensure protection of Florida's environment. In 2005, DEP also considered assumption and realistically determined it would be too costly. The only two states - New Jersey and Michigan - to have assumed 404 jurisdictions spent millions of dollars on their programs. In Michigan, the state's 2002-2003 wetlands program budget was nearly $7 million. Other states, like Arizona, have decided not to pursue assumption, given the burden that this would impose on taxpayers. No state with extensive coastlines, wetlands, and biodiversity that Florida enjoys has assumed jurisdiction. Moreover, state budgets at the country will be heavily affected by this pandemic and Florida is no exception. Florida has asked their state agencies to consider an 8.5% cut for this current year due to the pandemic. DEP has not acknowledged this fact, much less dealt with it in its proposal to EPA. Florida's application makes no mention of the resources of other state agencies that are similarly strained, but which DEP claims will be part of its assumed program, such as Florida Fish and Wildlife Commission and the State Historic Preservation Office. These agencies have acknowledged that they do not have the staffing or the resources to take on the additional responsibility of assumption. To conclude, since DEP has not complied with the Clean Water Act's requirements, EPA must reject DEP's application to the assumption of the 404 program. Thank you.

24:18 Jeanenne Gettle: Thank you, Miss Uhland. We have no additional questions.

24:23 Jan Connery: Great. We'll move to the-- we'll move to the next speaker and that is Jeffrey Blank. Please start by stating your name and affiliation, and then you'll have five minutes.

24:33 Jeffrey Blank: Hello. My name is Jeffrey Blank. I'm representing myself as a Florida resident. I implore the EPA to not allow Florida take over administration of the Clean Water Act Section 404. Florida has repeatedly shown its inability to handle programs on a statewide basis. Their utter disaster with the Florida state unemployment system illustrates this, leaving millions of Floridians without the needed and deserved unemployment payments because they could not properly access the broken unemployment system during the COVID-19 crisis. Florida's fix? Hire the same company that gave them a broken system to fix a system they could not get right the first time. Florida's refusal to allow the Affordable Care Act to be handled by the federal government, having it handled locally, and leaving millions of Floridians with little or no proper medical coverage, shows how badly Florida government handles large programs. One can only guess at the damage the Florida government will do, given the chance to handle such an

important program as Section 404 of the Clean Water Act. Our already delicate and troubled waters in and around Florida - can you say red tide? - would become more permanently destroyed ecosystem, leaving a disaster of epic proportions for generations to come. Allowing Florida to assume administration of this important federal EPA program has the potential to cost taxpayers billions of dollars in repairing the damage that another poorly handled Florida program would cause, not to mention irreparable damage to our environment. This would end up with less proper review and attention.

26:26 The Florida State DEP agency has cut staffing in recent years. If they move staff from other programs, as they say they will, into this, what would happen to the other programs? Are they short-changed? How are those programs going to function? Removing the federal oversight puts our environment at tremendous, unnecessary greater risk. In the face of increased development statewide, the protection and restoration of Florida's wetlands and water resources must be given the greatest possible attention. At the very least, this move must be postponed until time when the public may be fully involved - not one while we are still fighting and concerning ourselves with COVID - so we may have true full public participation. I implore you, do not give the Florida government another chance to show how badly they can mess up another program through mismanagement, backdoor deals, and awarding contracts to the lowest bidder. Our environment and our waters are too important for our future and our children's future. Thank you.

27:42 Jeanenne Gettle: Thank you, Mr. Blank. We have no further questions.

27:47 Jan Connery: Okay. We're going to move to our next speaker and that is Anna Upton. Anna, please say your name and affiliation, and then you'll have five minutes.

27:57 Anna Upton: Good evening. My name is Anna Upton. I'm speaking on behalf of the Everglades Foundation. Wetlands are of critical importance throughout Florida. The largest wetland in Florida is the Everglades. Taxpayers have spent billions of dollars over the course of decades to restore this treasured, unique ecosystem. The US Army Corps of Engineers has a track record of delaying permitting for the most important Everglades restoration projects, the most recent example of which is the A-2 Stormwater Treatment Area, which was an essential water quality feature of the Everglades reservoir. Everglades restoration projects should receive permits that are both environmentally protective and issued in a timely fashion.

28:42 The Everglades Foundation is focused on getting clean water to the Everglades, and into Florida Bay, as soon as possible. If the state assumes the Section 404 permitting process, it should accelerate critical Everglades restoration projects and save money in the long run. Assumptions should enable Everglades restoration to proceed with the sense of urgency it deserves, while maintaining the high level of review and protection required by Section 404. The US Environmental Protection Agency should only approve assumption if the State's program meets rigorous federal standards for wetlands and includes the same federal oversight and citizen supervision as the currently delegated NPDES program does. If assumption is granted, we expect the state of Florida to ensure the Department of Environmental Protection continues to have the necessary resources and capacity to review permit applications and exercise its new authority in a manner that protects Florida's precious and diminishing wetland resources. After all, wetlands safeguard Florida communities from the effects of climate change, they provide tremendous water quality benefits, they support fish and wildlife habitat, and they mitigate against flooding. And they are worthy of the highest level of protection. Thank you.

30:07 Jeanenne Gettle: Thank you, Miss Upton. I have no clarifying questions.

30:14 Jan Connery: Okay. We're going to move to the next speaker group. And I understand that our first two speakers are not here yet. So we're going to go to Kurt Spitzer as our next speaker. Kurt, please say your name and affiliation, and then you'll have five minutes.

30:32 Kurt Spitzer: Thank you. I'm Kurt Spitzer and I'm here with us today on behalf of the Florida Stormwater Association. We had one quick suggestion for an amendment to the rules, and that is that a certain percentage of the permits issued under the delegated program each year should be reviewed - audited, so to speak - for consistency with the criteria and conditions of the project's permit, and also, the project's consistency with state and federal policy and water quality standards. And we will follow up with a more detailed explanation of that suggestion prior to the deadline for the written comments.

31:30 [silence]

31:31 Jeanenne Gettle: Thank you, Mr. Spitzer. I have no clarifying questions.

31:37 Jan Connery: Okay. We're going to go next to Lisa Rinaman.

31:47 Lisa Rinaman: My name is Lisa Rinaman. I'm the St. Johns Riverkeeper. Thank you for the opportunity to speak. Our non-profit organization based in Jacksonville, Florida works to defend the St. Johns River and advocate for its protection throughout its 8,800 square mile watershed, including the river's wetlands that provide water quality filtration, flood control, and habitat. We are also a member of Waterkeepers Florida, a coalition of 14 Waterkeepers from across the state, and the international Waterkeeper Alliance. On behalf of our St. Johns Riverkeeper members, and as chair of Waterkeepers Florida, I formally submit our opposition to the state of Florida's request to assume Clean Water Act Section 404 authority. Florida's waterways are uniquely connected and are critical to our public health, our economy, and our environment. Our stake has fragile and critical areas that are regulated by Section 404 dredge and fill permits, and which require the highest level of review and scrutiny. Currently, federal Section 404 permits and state environmental resource permits overlap, and that must be obtained for impacts above regulatory thresholds and federal waters. This additional oversight provided by the federal government is critical to adequately protect our water resources. This important checks and balances has protected many acres of wetlands throughout Florida and within our watershed that would have been lost without federal oversight.

33:27 As an example, our organization, along with Sierra Club Florida, spent five years trying to save the wetlands at the headwaters of two major tributaries to the St. Johns. These wetlands have been influenced by development. However, the size of the remaining system, its location, its ecological diversity, and its function as a headwaters to Julington and Pottsburg Creeks, and its maturity, classified these as high- to very high-quality urban wetlands. These wetlands were also identified as essential fish habitat by the South Atlantic Fishery Management Council and designated as wetlands of regional significance by the Florida Fish and Wildlife Commission. Unfortunately, the St. Johns River Water Management District approved a permit that would have allowed the developer to destroy these high-quality urban wetlands. Fortunately, the Army Corps of Engineers denied the developer's application to destroy these acres of federally defined wetlands, largely due to their value. Sadly, according to the recently released 2019 Lower St. Johns River Report, wetlands within our watershed continue to be lost due to development pressures, which will likely contribute to flooding from storm surge and sea-level rise, as well as we lose their ability to filter out pollution, contributing to ongoing toxic blue-green algae. The estimated nutrient pollution removal by St. Johns River wetlands alone is valued at more than $1 billion every single year.

35:03 Florida's water quality and resiliency from sea-level rise depend on wetlands protection. We need more oversight and more protection, not less. This delegation would add additional regulatory burden to the Florida Department of Environmental Protection, which is already under-resourced for its current responsibilities. For example, FDEP is woefully behind schedule on total maximum daily load development and is regularly behind in enforcement actions related to the National Pollutant Discharge Elimination System permit programs. FDEP is not well-positioned to assume the additional responsibilities and permitting demands associated with the 404 program. Additional responsibilities will divert resources away from these critical pre-

existing duties, as well as leave Florida wetlands vulnerable. The department lacks resources, staff, and funding to implement, operate, and enforce the 404 program, and our state is experiencing an economic downturn due to COVID-19. Budgets have been cut, staff support has been reduced, and yet, Florida Department of Environmental Protection continues with this application. On behalf of the St. Johns Riverkeeper and Waterkeepers Florida and our hundreds of members and thousands of acres of watersheds, I urge the EPA to reject the FDEP's 404 assumption application package. This assumption is not in the best interests of Floridians or Florida water resources. Thank you for the opportunity to speak.

36:42 Jeanenne Gettle: Thank you. I have no clarifying questions.

36:47 Jan Connery: Okay. Well, so far, we have four folks in group two that are not yet at the hearing, so we'll keep an eye out for them. But that is good news for people who've raised their hands. We have a few folks on our standby list, so we're going to go there now because we are ahead of schedule. And then we will get back to our speaker order after taking a few of our standby commenters. So we're going to go next to our first standby speaker and that's Jane West. Jane, please start by saying your name and affiliation, and then you'll have five minutes.

37:30 Jane West: Thank you. Good evening. My name is Jane West. I am the policy and planning director for 1000 Friends of Florida and an environmental litigator for the last 22 years. 1000 Friends is Florida's leading growth management watchdog, advocating for saving special places and building better communities. The Clean Water Act was implemented in 1972 because the states were failing, rather catastrophically, to manage the waters within their jurisdiction. Recent failures in Florida's water quality demonstrate that our state agencies are simply not poised to handle the grave responsibility of effectively managing our water resources. DEP staff and budget were severely cut back by the Scott administration and have not come close to fully recovering. The COVID pandemic makes funding even more unlikely anytime soon. The lack of requisite resources to ensure proper protection of Florida's wetlands is a primary concern.

38:27 Florida has already lost over half of its wetlands, with great negative effects on water quality, fish nurseries, wildlife habitat, and flood control. Since the federal permitting program commenced in 1975, Florida has consistently rejected responsibility for the program because of the decrease in wetland protection and lack of funding for the additional work that it involves. So we can't afford the changes contemplated in this proposed rule. State assumption will not protect Florida's imperiled natural resources. The state assumption fails to meet your own criteria because it will not be consistent with, and no less stringent than, the current federal program. As such, we encourage you to reject this request for the state of Florida to assume administration of the Clean Water Act Section 404 program. Thank you so much for your time.

39:20 Jeanenne Gettle: Thank you, Miss West. I have no clarifying questions.

39:24 Jan Connery: Great. Thanks, Jane. I'm glad we could fit you in. We're going to go to our next standby speaker, and that is Amber Crooks. Amber, please tell us your name and affiliation.

39:35 Amber Crooks: You can hear me?

39:38 Jan Connery: Yes, we can. Very well.

39:40 Amber Crooks: Great! Glad to have the opportunity. Hello, my name is Amber Crooks and I'm an environmental policy manager with the Conservancy of Southwest Florida. I did testify last week with the Conservancy's comments, but tonight, I would like to read into the record a resolution that was passed by the Everglades Coalition that opposed the state of Florida taking on the Clean Water Act Section 404 program. If you're not aware, the Everglades Coalition is an alliance of more than 60 local, state, and national conservation and environmental organizations dedicated to the Greater Everglades Ecosystem. The Conservancy of Southwest Florida is one of those organizations. The resolution was passed originally in 2013 and speaks to the state legislative bills that advance the assumption package you see before you today.

40:29 The resolution reads, and I quote, "Whereas, assumption would allow Florida to take over aspects of the Clean Water Act Section 404 program and would remove the Army Corps of Engineers from reviewing projects that oppose dredging or filling of wetlands. And whereas, removal of the Army Corps of Engineers as a federal regulator creates uncertainty in how other federal laws will be complied with, including the National Environmental Policy Act, Magnuson-Stevens Act, and National Historic Preservation Act, among others. And whereas, it has not been determined how the state of Florida, which is one of the most biodiverse areas in the nation and is home to dozens of listed species, would address Endangered Species Act compliance. And whereas, the state of Florida has stated it does not anticipate additional financial resources will be needed to take on the Clean Water Act Section 404 program, even though reviewers would need to be trained on Clean Water Act and would be responsible for reviewing permits under a differing set of regulations that exist with the state's wetland regulatory program. And whereas, wetlands are critical to cleansing water, helping to recharge groundwater supplies, providing fish and wildlife habitat, and maintaining a natural infrastructure that helps store floodwaters and provide resiliency in storm events. And whereas, Florida has already lost a substantial amount of historic wetlands and our remaining intact wetland ecosystems are at risk from a projected human population increase to 33.7 million residents by 2070. And whereas, in the face of increased growth and development, the protection and restoration of the Greater Everglades, an ecosystem largely comprised of wetland habitats, is better accomplished by maintaining the existing oversight from federal agencies. Therefore, be it resolved, the Everglades Coalition, with its over 60 member organizations committed to the protection and restoration of America's Everglades, hereby opposes SB 1402, which would allow the state of Florida to pursue wetland permitting under the Clean Water Act Section 404."

42:33 As I conclude, I just want to also mention that the Everglades Coalition also reached consensus on two additional documents opposing assumption in 2020, this year. In their letters, dated March 9th, 2020, and March 31st, 2020, the Everglades Coalition again expressed concern and opposition to Florida's assumption of the 404 program. We will be providing a copy of these documents to your records. But we thought it was important for you to be aware of these efforts by the Everglades Coalition and I thank you for the time to read these into the record. Thank you.

43:10 Jeanenne Gettle: Thank you, Miss Crooks. I have no questions.

43:17 Jan Connery: Okay. Well, we have time for a couple more standby speakers. So we're going to go next to Drew Martin.

43:28 Drew Martin: Hello, this is Drew Martin. Can you hear me?

43:30 Jan Connery: Yes, just fine. Please start with your name and affiliation.

43:34 Drew Martin: My name is Drew Martin.

43:35 Jan Connery: And also, sorry, Drew, would you spell your name for us?

43:40 Drew Martin: D-R-E-W M-A-R-T-I-N. I'm the conservation sheriff of the Loxahatchee Group of the Sierra Club. I'm also a member of the Conservation Committee of the state chapter of the Sierra Club in Florida.

43:57 I am opposed to the assumption of the 404 permitting by DEP. First off, already, I don't believe DEP has the resources to assume this. There is no plan to give DEP any additional funding to pay for this. Under the COVID situation, DEP will actually have, possibly, less funding. The other problem I see is that the federal government has much greater resources: the EPA, the Army Corps of Engineers, and many more scientists. They will also follow the mandatory laws, such as the NEPA. I'm concerned that DEP will ignore these laws. Florida, under DEP, has a terrible record of protecting wetlands. Florida has probably lost more wetlands than any other state in the union. Florida, originally, was almost entirely wetlands in the south part of Florida, south of Lake Okeechobee, with the exception of the coastal ridge. Much of that land has been drained. With

the onslaught of climate change, I believe that we will have even less wetlands to give up. Yet, this whole reason that DEP wants to assume this and the whole reason this law was passed was to make it easier for the state of Florida to destroy wetlands.

45:29 This is not about protecting wetlands. This is about destroying wetlands. And that is the basic reason why the legislature of Florida passed this law to take over the assumption of 404 permitting. Further, it is my concern that the destruction of wetlands at a time when we are threatened by climate change and our stormwater situation is extremely poor will make matters even worse. There is a very poor record of mitigation in the state of Florida. Many mitigation banks have been incorrectly handled. There's a great deal of destruction of wetlands all around our developed areas. We are really asking you not to move forward with this assumption on the part of the state of Florida. We are asking you to go ahead and deny this decision. It also should be mentioned that the state of Michigan is actually trying to give up their assumption of wetlands permitting. So we really think that this is the sort of thing that you should not move forward with. We see no evidence that the state of Florida could adequately take over the assumption of wetlands permitting. We see no ability from staff. We see no ability from funding. We see only things getting worse. We think that the EPA and the Army Corps of Engineers should maintain this. Further, as Amber Brooks stated, the Everglades Coalition opposes this, and numerous, numerous environmental groups oppose this. Thank you.

47:20 Jeanenne Gettle: Thank you, Mr. Martin. I have no clarifying questions.

47:25 Jan Connery: Great. And we'll go to another standby commenter. Chris Pettit. Please start by saying and spelling your first and last name, Chris, and then give us your affiliation, and then you'll have five minutes.

47:42 Chris Pettit: Thanks. This is Chris Pettit, P-E-T-T-I-T; C-H-R-I-S, first name. I'm the director of the Office of Agricultural Water Policy for the Florida Department of Agriculture and Consumer Services. We just wanted to comment on the proposed delegation. We appreciate the ability to continue to engage and just wanted to note that a clean and safe environment continues to be vital in sustaining our way of life and economic foundation. Our lands, our wetlands, marshes, estuaries are vital to maintaining and improving the sustainable recharge for our groundwater aquifers, clean and safe waterways. Any number of businesses that provide significant revenue to the benefit of those that live, work, and enjoy life in our state depend on those waters. Given the value of those resources and wetlands to the citizens of the state, and given the significant amounts of input that have been provided, any delegation that is approved should contain assurances that existing levels of protection of the natural resources will be preserved, that sufficient resources are available, and remain available for the Department of Environmental Protection to implement their regulatory programs in an efficient and effective manner. The elimination of additional federal scrutiny for projects that have the potential to significantly impact those resources requires that any existing state programs demonstrate the ability to protect those resources.

49:13 I will note that the two states that have previously assumed 404 authority have encountered significant challenges in areas that have been raised by a number of speakers previously, and that they have had to make significant changes in order to keep those programs after a subsequent review by EPA. To date, at least to the satisfaction of interested parties, adequate evidence has not been provided that DEP has the resources to tackle the significant increases in workload that will be required by the delegation, or that existing state regulatory programs are adequate to provide sufficient protections to the water resources of the state in the face of increasing development impacts, climate change, and other factors that continue to reduce the state's open lands and agricultural landscapes. As such, any delegation should ensure the preservation of levels of public participation and comment afforded by the National Environmental Policy Act through the development of EIS for projects with sustainable impacts. The delegation should also require the State to demonstrate that the protection of species

against possible loss of protections and stringent levels of review that are provided by ESA will be maintained. As part of any delegation, DEP should demonstrate that the State program adequately explores practicable alternatives prior to allowing for mitigation and ensures that cumulative impacts are properly incorporated as any part of an impact analysis that's undertaken. The Department continues to be supportive of exploring all those opportunities to ensure progress on vital environmental restoration and water resource protection projects being implemented through local government state agency programs, two point, the efficient and effective implementation of projects tied to Everglades restoration, and the ability to get those done are paramount. However, the protections that are required pursuant to a delegation should remain in place. Regulatory programs should ensure consistency, efficiency, transparency, public participation, and the ultimate protection of the water resources of Florida for the benefit of its citizens. We remain committed to working with its agency partners on both the state and federal level to ensure that those goals are realized. Thank you very much.

51:45 Jeanenne Gettle: Thank you, Mr. Pettit. I have no clarifying questions.

51:50 Jan Connery: Great Well, we have time for another standby speaker, so we're going to go to Albert Gomez. Please start by saying and spelling your name, give us your affiliation, and then you'll have five minutes.

52:04 Albert Gomez: Yes, this is Albert Gomez. I'm on the Steering Committee for the Biscayne Bay Marine Health Summit and I'm a citizen of South Florida. I just wanted to mention my opposition of Florida's request for assumption of the Section 404. Specifically, two metrics. Personally, doing ride-alongs and checking South Florida's NPDES standards, we've miserably failed. And in most cases, it's the public and local advocacy groups that are pointing out these failures and calling on DEP to come in and validate what we're seeing as failures in the field. And, effectively, that's getting harder every day, I think, since 2010, when over 500 wetland scientists were axed, based on a budget cut from the Scott administration. So, effectively, we move forward to now, most, if not very few, of those wetland scientists have been replaced. So to consider that they will be able to assume the added responsibility of permitting assessment and environmental review is just not viable. It doesn't make any sense.

53:28 Furthermore, they've already had the responsibility of managing the Water Compliance Enforcement Program. And if you look over the time that they've managed that program, there's been, probably, an 80%-- maybe, 70 to 80 percent degradation in wetlands on the areas that they're managing. So it's showing that their management responsibilities are not meeting the modus of what they were tasked to do. So you add those together with this added responsibility, knowing that we're in a COVID crisis, we have massive budget shortfalls. At the Summit, we're requesting for more water sampling representatives where there is no money to fulfill that obligation or that requirement, because we know we need it down here in South Florida. So, effectively, if we just load those up into a pro and con, the cons far outweighed the pros for wanting to fast track a permit, for SERP, or anything. Even though those things are very, very positive, you need to have the oversight and the environmental review in order to accurately approve permits. To just pass this along and consider that DEP will be able to handle it when-- there are amazing individuals DEP, don't get me wrong. That said, it's not cutting mustard and, realistically, this is setting us up for failure in the long run. So I'm hoping - from a layman's, you're taking comments - that this is not the right move. And it's not the right move based on fact, metrics, and past experience. Thank you.

55:16 Jeanenne Gettle: Thank you, Mr. Gomez. I have no questions.

55:21 Jan Connery: Okay. In that case, we'll go to our next standby speaker. That is Dr. Neal Schleifer. Would you please say and spell your name for us? Give us your affiliation, and then you'll have five minutes.

55:36 Neal Schliefer: Hi, I'm Dr. Neal Schliefer. That's N-E-A-L S-C-H-L-I-E-F-E-R. I'm president of the Paradise Cove Association in Sarasota, Florida and I'll be relatively brief. We just want to state our opposition to assumption of the Clean Water Act Section 404 by the State. Others have stated already how important the wetlands are. And Florida is neither prepared nor properly funded. The State; that is, the state of Florida take over administration of the Clean Water Act. Also, there's too much politics involved. There's too much partisan politics and pro-development in the State to objectively protect the wetlands. So, therefore, we oppose state assumption of the Clean Water Act. Thank you.

56:32 Jeanenne Gettle: Thank you, Dr. Schleifer. I have no further questions.

56:39 Jan Connery: Okay. Well, we don't have more standby speakers. We are a little ahead of schedule but we do have a couple of folks from speaker group three on the line, so that's where we're going to go next. Some of our group two, we haven't seen them yet. So our next speaker is Kayla Barretto. Kyla, please give us your name and affiliation, and then you'll have five minutes.

57:08 Meredith Outterson: So, Kayla, it looks like you're still muted on your end, so-- there you go.

57:12 Kayla Barretto: Sorry. I apologize.

57:15 Meredith Outterson: Go right ahead.

57:16 Kayla Barretto: Can you hear me now?

57:17 Meredith Outterson: Yep, you're good to go.

57:18 Kayla Barretto: All right. Hi, my name is Kayla Barretto. I am actually a resident of Miami-Dade. I have no affiliation. And I thought this was supposed to be questions, but I will try and do comments here. I just wanted to reiterate what Rachel Uhland said about little notice that we got. I only found out about this because of Carl Harrison writing an article about this situation. And I find it's a poor situation on our environments, alone on our ecosystem in Florida. We depend on our wetlands and our ecosystem. It's horrendous of all the development that has been going on. I live in Miami-Dade alone, and the development that's going on here, on our wetlands, is horrendous. I don't have no affiliation with no actual organization, but me just living here and observing what's going on around me, I worry about the environment, I worry about the animals, the wildlife that we have here, the displacement of our wildlife. And why is it that everything is just up and going so fast without actual proper sitting down and looking at the permits that are being approved for a lot of these projects that are happening on our wetlands?

58:34 So that's just basically, kind of, what I really wanted to stress about, is our environment, is the wildlife, the ecosystem, our wetlands. I think that that should be the most important thing, instead of overpopulation. We have so much traffic as it is already. All the pro-development politicians that are in, they are only for pro-development and developing our county, instead of actually being more concerned about our environment and what it can do for us. We're already in climate change and it's worse this year than ever. It's a constant, constant, just developing without actually thinking about the prolonged effects of our wetlands. We're already below sea level here in Miami-Dade. Why do we need any more developments? It's completely unnecessary. So I'm opposing the request they assume administration of the Clean Water Act Section 404 program. Thank you.

59:35 Jeanenne Gettle: Thank you, Miss Barretto. I have no clarifying questions.

59:41 Jan Connery: Okay. Good. Well, in that case, we'll go to our next commenter and that is Alison.

59:54 Jan Connery: Meredith, I think you may need to mute someone. So we will go to our next commenter. That is Alison. Anton has not yet joined us. We're a little ahead of schedule, so we may be hearing from him and circle back to him when he joins, if he does. Alison, please start with your name and affiliation, and then you'll have five minutes.

01:00:18 Alison Kelly: Can you hear me?

01:00:19 Jan Connery: Yes, we can.

01:00:21 Alison Kelly: Okay. Wonderful. This is Alison Kelly. I am a senior attorney with the Natural Resources Defense Council, which is also an organizational member of the Everglades Coalition. We have significant concerns about the State's assumption of this program, and therefore, must oppose at this time. The concerns include the Department's failure to adequately enforce environmental protection already under its purview, the already severe degradation of wetlands in the State, the lack of resources to undertake a critically important federal program, the inability to protect endangered and threatened species, and the adequacy of consultation regarding impacts to tribal, historic, and cultural resources. This program must be as stringent as the current federal program, and Florida has not submitted enough evidence to show that it has met this bar. The Department's assumption application fails to describe or list the waters that will be assumed if Florida's application is granted, which is critical information for members of the public to determine the impacts to their interests. The Department has failed to explain how endangered species will be adequately protected and the Department does not have adequate staffing resources or experience necessary to permit and enforce Section 404 requirements. I should note that I was also a regulatory enforcement attorney doing wetland enforcement for the Department and the South Florida Water Management District, so I am able to answer a few questions on that, if you have any.

01:01:40 Also, there is a global pandemic taking place. We should not even be considering things of this magnitude at this sensitive time. Folks are losing their jobs. They are getting sick. They are taking care of family members who are sick. This is completely inappropriate and we cannot have meaningful and fair, transparent public comment during this time. At a minimum, this should be tabled until the global pandemic is behind us. And despite numerous attempts to have virtual hearings, not everyone is privileged enough like I am at this moment to have broadband internet access. I think this came up in another planning effort, as well, called M-CORES. Also, the Department does not have adequate resources to take over this program. They're already quite overwhelmed with the Environmental Resource Permit program, the state wetland permitting program. It's unclear how they're going to staff this, how they're going to train existing staff when these folks are already overworked. How are we going to organize the Department's enforcement responsibilities and permitting with the water management districts under memoranda of agreement? For example, the South Florida Water Management District handles most of the larger wetland permits and enforcement under the Environmental Resource Permit program, pursuant to an operating agreement with the Department. Will most of this responsibility now goes to the water management districts? And do they have the resources necessary to do this?

01:03:03 Florida will lose vital federal review and protections. Florida's critically important wetlands and endangered species must be held to the highest review standards to protect our resources from local political pressure and special interest, given how fast population growth and development is occurring. Federal operation on the 404 permit triggers a myriad of other federal protections under the Endangered Species Act, National Environmental Policy Act, and National Historic Preservation Act, that protects our cultural resources. We need to make sure that this oversight and this accountability remains. Also, DEP does not currently do meaningful enforcement of its own permits and programs, including the Environmental Resource Permit program. So how is it going to enforce 404 requirements? According to the Public Employees for Environmental Responsibility, the number of enforcement cases open in 2019 rose slightly, but this largest number of cases was about 469 cases, compared to the 1500 cases that were open in 2010. So we're not enforcing as many cases currently as we have in the past. This includes the dredge and fill program, which oversees the development of Florida's wetlands. It dropped 36% in 2019. So how is this going to be any different with enforcement of the 404 program? With dramatic cuts to staffing, reductions in expertise, and inadequate enforcement of existing environmental

mandates, the Department currently fails to adequately protect wetlands. And I don't see how this is going to change by assuming this program.

01:04:30 We also need to protect our endangered species. Streamlining wetlands permits will destroy these precious water resources that many endangered species in Florida, over 130 listed species, call home. And this is not in the best interests of Floridians or the United States. While programmatic consultation can provide a framework for future actions, under Florida's proposal, this truncated consultation will essentially give approval for foreseeable actions and take of endangered species without permit level review. So based on the foregoing, we feel the EPA must deny the Florida application to assume the 404 permitting program at this time. Thank you.

01:05:11 Jeanenne Gettle: Thank you, Miss Kelly. I am going to provide one clarification. The function package that we have received is for assumption by the state of Florida, to be administered by the Florida Department of Environmental Protection.

01:05:27 Jan Connery: Okay. Thank you. We'll go to our next speaker, and that will be Beth Alvi. Beth, please start by saying your name and affiliation, and then you'll have five minutes.

01:05:42 Beth Alvi: Thank you. Good evening. I'm Beth Alvi, director of policy with Audubon Florida. Audubon Florida appreciates the opportunity to comment on the State's request to assume a 404 program. I will share some of our concerns and my colleague, Chris Farrell, will follow with the remainder of our comments. We are concerned that the state of Florida does not have adequate resources to assume a 404 program at this time. A successful program would require significant additional resources within the Department of Environmental Protection, and, most likely, within the Florida Fish and Wildlife Conservation Commission as well. The State has not indicated that it will be collecting fees for the 404 permitting program. And the State has not considered an increase in the budget of either agency to accommodate the new responsibilities of the 404 program. As well, due to fiscal constraints resulting from the pandemic, the State is exploring significant reductions in state agency budgets.

01:06:46 In its application, the State suggests it will handle all additional work by redirecting the existing workforce. Such an approach will surely result in a loss of rigor from their existing regulatory and restoration programs. We have heard concerns that the Corps' permitting slows down the pace of completion of much-needed restoration projects and that there is a need to streamline processes. Audubon is responsible for a few Gulf restoration projects in Florida that required Army Corps 404 permits. Audubon Florida did not find their procedures to be a barrier, nor did we face any unnecessary delays in the permitting and review process. We have valued the Corps' participation in permitting our projects. Finally, we feel the Department of Environmental Protection would best serve the people of Florida by concentrating on improving the existing ERP program. Analysis by Audubon; NOA, the agency; the National Academy of Sciences; the US Fish and Wildlife Service have shown deficiency in both state and federal wetland permitting programs. Wetland losses, clearly, have compromised Florida's water quality, flood protection, dry season wildfire resilience, water supply, and economic and environmental health. The governor's Executive Order 19-12 clearly articulates statewide environmental priorities, which include restoration and protection of wetlands and watersheds. Audubon strongly recommends that the Department focus its restored resources on implementing these priorities and improving wetland protection outcomes in its Environmental Resource Permitting program before assuming another wetland regulatory program. Thank you.

01:08:39 Jeanenne Gettle: Thank you, Miss Alvi. I have no clarifying questions.

01:08:43 Jan Connery: Okay. We will move to the next speaker and that is Chris Farrell. Chris, please say your name and affiliation, and then you'll have five minutes.

01:08:52 Chris Farrell: My name is Chris Farrell, with Audubon Florida. I'll share a few additional concerns we have, based on the information in the State's application package. We conclude it's premature for EPA to grant this assumption because the program description is not full and

complete as required, does not guarantee a program that's as stringent as the current one, and it faces significant outstanding legal concerns that could work against the goal of streamlining permitting in the state. More information is needed to consider the program full and complete and some discrepancies in the program application need to be corrected. For example, the State's 404 Applicant's Handbook says the Department of Environmental Protection may use various resources to determine a project's potential impact on listed species. But it doesn't state any minimum level of due diligence that will be completed. Additionally, it now appears the process described in the handbook has changed and the Florida Fish and Wildlife Conservation Commission will be making the initial listed species determinations, rather than the Department. So these issues would need to be clarified for what the exact procedures are that are going to be followed. Further, the State does not sufficiently describe how they'll replace important protections from federal laws that normally apply to federal actions. When the Corps issues a 404 permit, the decision's subject to NEPA. Occasionally, NEPA leads the quarter completing an Environmental Impact Statement for projects that have significant potential for environmental impacts. Completion of an EIS takes time, personnel, expertise, and stakeholder involvement. State's plan does not explain in sufficient detail how they would replicate such detailed analyses and their modest expectations for additional workload requirements do not appear to account for such detailed efforts. Section 7 consultation from the Fish and Wildlife Service is not mandated for state permits. The State has submitted an MOU that explains how cooperation with FWS may work, but our understanding is the MOU has not been signed by FWS yet. The public and the EPA cannot evaluate the State's plans for assumption without knowing all parties are committed to the actions described in the MOU and that are anticipated by DEP.

01:11:11 Another issue that needs more time for consideration relates to the liability for take of listed species from projects with state permits. It's been suggested by the State that a programmatic consultation for assumption would cover all permits the state issues. This is an incredibly controversial legal statement and has not been given sufficient time for a review, and it would most certainly be tested in court. EPA's position for the last 10 years held that programmatic consultations were not even part of the assumption process, a position that was just reversed months ago after the State submitted a white paper to EPA. FWS has engaged in programmatic consultations in the past, but these were used to facilitate the permitting of repeated actions that have similar and predictable impacts. The State's example of the EPA's cooling water intake structure rule as a precedent for a programmatic consultation for a permit program doesn't really hold up. That program deals with one very specific impact from one industry and restricts applicants to a small number of solutions. The 404 program deals with an incredibly wide variety of projects and potential impacts, ones that cannot be captured in a programmatic fashion. If the legal argument that a programmatic review protects all permits falls through, permittees will need to seek separate protection for incidental take. And, as the state says in their white paper, this situation would lead to a regulatory program more burdensome than the existing federal one. For these reasons and others we will submit in writing, we believe it's clear that EPA should reject the State's request to assume a 404 program at this time. Thank you.

01:12:57 Jeanenne Gettle: Thank you, Mr. Farrell. I have no clarifying questions.

01:13:02 Jan Connery: Okay, very good. We are once again ahead of schedule. So we have a couple of folks who've raised their hands and would like to speak on our standby list. And we're going to go to the first of those and that is Jim Tatum. Jim, please start by spelling your name and saying your name and affiliation, and then you'll have five minutes.

01:13:30 Meredith Outterson: So, Jim, just a heads up that it looks like you're still muted on your end. So if you're speaking, we can't hear you yet. Please try unmuting on your keyboard or headset.

01:13:38 Okay. Can you hear me now?

01:13:40 Yes, we can hear you very well.

01:13:42 Jim Tatum: My name is Jim Tatum, T-A-T-U-M, and I represent Our Santa Fe River, which is a non-profit from Fort White, Florida. We strongly oppose the assumption of the Florida DEP for this program, and mainly because the DEP, historically, cannot control its water resources in Florida. With this further control removed-- the federal government removed, it would take away a form of checks and balances and our DEP would then fast track the permits. Our rivers and springs have been in decline constantly over time and most of our North Florida rivers and Central Florida rivers are about 30% less of flow now and at historic times. By the DEP's own admission, they have produced failed VMAPs. They admit that they will not work. The MFLs that they produce are not realistic. Our rivers, already, have significantly harm. Finally, we would say that the DEP does not have the resources to do this. But, more importantly, they do not have the political will to protect these resources. One last thing with this. It would be a continuation of a dangerous trend we see of a power grab in Tallahassee, wanting to try to do everything and taking, especially, power away from municipalities and home rule. Thank you very much.

01:15:25 Jeanenne Gettle: Thank you, Mr. Tatum. I have no clarifying questions.

01:15:29 Jan Connery: Good. We will move next to another standby speaker, Christopher Michaelessi. Please say and spell your name for us and let us know your affiliation, and then you'll have five minutes.

01:15:49 Meredith Outterson: Hey, Christopher. Same comment as for Jim, it looks like you're muted on your end. So please try unmuting on your keyboard or headset so that we can hear your comment. Still can't hear you at the moment. I can work with you behind the scenes to try to solve the issue.

01:16:12 Jan Connery: All right. Well, in that case, we do have a number of folks in our next speaker group, which is group four. So we'd like to take them. And our first speaker is Marian Ryan. Please say your name and affiliation for us, Marian, and then you'll have five minutes.

01:16:34 Marian Ryan: Hi, my name is Marian Ryan. I'm the conservation chair of the Ancient Islands Group of the Sierra Club Florida. Our group encompasses Polk, Highlands, Hardee, Desoto, and Sumter counties. Florida's request to take over federal permitting under the Clean Water Act Section 404 must be denied. Our Sierra group has been reviewing phosphate mining permits for years and it has been hard enough to ensure that 404 permits issued by the US Army Corps of Engineers provide enough protections for wetlands. If the state takes over, it will be even more difficult to stop politically influential mining and development interests from destroying our remaining wetlands and polluting our waters. A prime example is Mosaic's plan to mine some additional 14,000 acres within the Peace River basin, which has already been deeply and irreparably scarred by phosphate mining. Our group also encompasses a large portion of the Green Swamp, headwaters of four major rivers, and an important wildlife corridor for Central Florida. This designated area and critical state concern has always struggled to attract the agency protections that it deserves, and it once again is suffering from an empty desk in Tallahassee.

01:17:49 FDEP has been understaffed and overwhelmed for years just trying to maintain their own programs. The promise to hire additional, low-paid staff to assume 404 permitting requirements is a promise to fail. FDEP will continue to be a training ground and stepping stone to other higher-paying agencies and private enterprise, ensuring that our wetlands and wildlife will suffer. To give you a hint of Florida's current attitude towards growth management and the environment, the former Department of Environment-- the former Department of Community Affairs was reorganized in 2011 into what is now the Department of Economic Opportunity. Given the serious ground and surface water quality and quantity issues, that suffer has long endured and is trending negatively, as well as the perilous status of so many of our wetland-dependent species, we urge you to deny Florida's request. We will submit further comments in writing. Thank you.

01:18:54 Jeanenne Gettle: Thank you, Miss Ryan. I have no follow-up questions.

01:19:00 Jan Connery: Okay. We will move to our next commenter. That is Tom Knuckey. Tom, please give us your name and affiliation, and then you may start your comment.

01:19:13 Tom Knuckey: Hello. Thank you. My name is Tom Knuckey and I am not affiliated with any group. I'm calling as a concerned Florida citizen in Central Florida. I'm a lifelong Floridian of over 50 years and I've seen the destruction of our environment by pro-business and development groups, especially in the past 10 years and in the last two administrations. I'm calling tonight to express my opposition to Florida's DEP request to administer the Clean Water Act Section 404. The DEP is underfunded and under-resourced to take on such a critical responsibility for the future of Florida, for the future of our businesses, for the future ecotourism, for the residents, for the wildlife, and for the appropriate water storage and water quality. DEP's resources have been cut over the past 10 years. Under the previous administration, over 600 DEP employees either lost their job or were forced to leave. The funding has not returned to DEP and DEP is unprepared to take on this significant program for the protection of clean water. The funding at DEP is at the whim of the state politicians and under the current COVID epidemic and pandemic, we are not able to, as Florida citizens, be able to make sure, under our balanced budget provisions, that the funding of DEP will rise to the occasion to meet this responsibility. In fact, the plan doesn't even address how this is going to be funded. Also, it's my opinion that the Florida DEP, although they're made up of good employees, are unfit to be able to take on this heavy challenge of carrying the responsibilities that the Army Corps of Engineers actively done a good job of over the past decades. And finally, my closing concern is that DEP is subject to the influence of politicians and lobbyists through the Florida legislature, and that's where this bill originated to take over the administration of the Clean Water Act. And I'm pleading with you, as other concerned Florida citizens are, to deny this request. Thank you.

01:21:19 Jeanenne Gettle: Thank you. I have no clarifying questions.

01:21:23 Jan Connery: Great. Then we'll move to our next speaker. That's Faith Bickner. Faith, please start with your name and affiliation, and then you'll have five minutes.

01:21:37 Meredith Outterson: Hi, Faith. If you're speaking, we can't hear you. There you go.

01:21:40 Faith Bickner: Can you hear me now? Okay. So I'm Faith Bickner. I'm speaking on behalf of the Center for Biological Diversity. First, thanks to the EPA staff here and the representatives of all the diverse groups, and also, the individual citizens. It's really cool to hear from so many people just calling from home. But that being said, these two barely publicized remote meetings really do not constitute the kind of public engagement warranted or mandated by federal law for what would be a rash major administrative rollback. I feel strongly that the EPA should decline FDEP's application to assume jurisdiction over the wetlands permitting under 404 of the Clean Water Act because the FDEP has failed to demonstrate the capacity to take on this major responsibility. And the consequences of those gaps would be really devastating. Firstly, FDEP's proposed program would illegitimately circumvent the requirements of the Endangered Species Act. The ESA is largely viewed as the strongest environmental protection statute in US federal governance and imposes strict requirements on any discretionary federal action. This includes the sections having duty to consult with the US Fish and Wildlife Services and NOAA Fisheries. When an agency action may affect a listed species, including, of course, issuance of a 404 permit, Section 7 consultation responsibilities apply to federal action, but wouldn't carry down to the state. And the EPA should continue to require permit-specific consultation for the many treasured endangered species in Florida waterways and should regard FDEP's application as incomplete until it meets that requirement. The truncated one-size-fits-all approach proposed by FDEP would constitute a vast stripping of protection to the many threatened and endangered species that live only in Florida waterways. I think another commenter mentioned that there's more than 130 threatened or endangered species living only in Florida water-- or living in Florida waterways. And we have to remember that when the ESA was being passed by Congress, we expressly declined to protect endangered species only where it was practicable, where it was

convenient and, instead, chose to afford protection of threatened and endangered species at the highest priority, regardless of how administratively inconvenient it may be to groups like The Fertilizer Institute. The people of Florida support the protection of endangered species, and not the continuous freefall of development transforming the State, which makes the exclusion of meaningful public participation in this process all the more unjust.

01:24:19 Moreover, the FDEP lacks the staffing, funding, and expertise to conduct these consultations or responsibly administer the 404 permitting program. Because the assumption of 404 responsibilities would require a Fish and Wildlife review of state-issued permits, which must also comply with water quality standards protective of endangered species, the FDEP would be immediately further overwhelmed by the incredible scale of consultation necessary to protect the many wetlands and endangered species of Florida. As noted by lifetime public servants at the last hearing, the FDEP has reduced its staffing and has already consistently failed to adequately operate the programs under its purview, while claiming that no additional resources would be needed to take on this enormous responsibility. FDEP has failed to submit a complete application in other ways, failing, one, to identify the waters the state program would cover, which make meaningful public comment and participation impossible; to specify the staffing and funding details necessary to operate the program; and three, details on how, exactly, it would "streamline" the current wetlands division, which is already understaffed and woefully behind on their current responsibilities. It's worth noting that another one of their responsibilities is a permitting task assumed from the federal government, The National Pollutant Discharge Elimination System, which, as was noted, I think, well at the last hearing, they're consistently behind and underperforming at. And lastly, just off the cuff, personally, the Florida legislature only approved the possibility. They didn't approve this application. They said, "Okay, the FDEP is approved to put together an application." And we're seeing that they applied for this job and we called their references, and they aren't qualified. If a potential employee shows up to work 1 out of every 20 days, you don't make a manager. The wetlands and the many treasured endangered species of Florida cannot be gambled with on such a massive scale. And to reiterate many other commenters' position that it's wildly inappropriate to be pushing such dramatic changes through at this time. I thank you so much for your time.

01:26:49 Jeanenne Gettle: Thank you, Miss Bickner. I have no clarifying questions.

01:27:00 Jan Connery: Okay. We'll go to our next speaker. We don't have Christian with us right now, so our next speaker will be Sandra Chiappetta. Sandra, please start with your name and affiliation, and then you'll have five minutes.

01:27:16 Sandra Chiappetta: Hello. Can you hear me?

01:27:17 Jan Connery: Yes, just fine. Please go ahead.

01:27:20 Sandra Chiappetta: My name is Sandra Chiappetta and I'm with Boca Ciega Bay Friends. I want to express my objection to the FDEP's proposal to assume administration under Section 404 of the Clean Water Act for wetland permitting in the waters of the United States. For decades, the FDEP's promise of environmental protection has taken a backseat to facilitating permits for development. Now, the State wants to further streamline that process by removing federal oversight. Currently, the United States Army Corps of Engineers provides written public notice to nearby property owners with an open comment period. This development feedback process ensures critical local knowledge is included in the environmental impact analysis for our shared water resources and endangered species. The FDEP considers public notice in any obscure publication anywhere in the same county, often miles from the area that will be impacted, sufficient public notice. This robs nearby property owners of proper written notice and robs them of their voice and protecting their properties from potentially environmentally damaging development proposals.

01:28:32 Here is an example based on my personal experience with the FDEP permit review process. Several years ago, I received a Corps public notice in the mail for a 71-boat marina expansion after the FDEP had already approved their permit and forwarded it onto the Corps. Questions on the FDEP permit application were answered incorrectly, important questions were left unanswered, and all the information was provided solely by the developer. The Manatee Biological Evaluation for this permit used outdated data; assumed, incorrectly, that the Slow Speed Manatee Zone was controlled and enforced; failed to address cumulative damage to the seagrass protection and restoration targets in the surrounding area, a critical manatee food source; and overlooked inadequate water ducts for surrounding areas, with some water ducts assumed and not even verified. The FDEP permit was approved for 71 40-foot boats with drafts up to four feet deep, with little consideration for hazards to navigation, without any consideration for county or city codes, and without adequate minimum water depths in all access areas, including a shoal across the entire north access area that has assumed water depths of minus three feet mean low water. FDEP approval with inadequate water depths will enable the developer to then request approval for environmentally damaging dredging for shoaling, even if that area has been shoaling for years, but has previously been dredged, even decades ago. This marina expansion covering an area the size of a football field was approved by the FDEP in an open, unprotected area, without consideration for costly potential damage to the marina itself, nearby properties, or protected seagrass ecosystems that could be caused by runaway boats during a hurricane. In stark contrast, the Corps permit included consideration for county and city codes and reviewed additional critical information supplied by the public and multiple agencies. The Coast Guard noted that the marina expansion was a major hazard to navigation. The Corps required the proposal to be downsized to conform to local codes to protect navigation rights and they requested a comprehensive and thick bottom seagrass survey throughout the footprint of the marina.

01:31:09 This is just one permit. Now, imagine that multiplied thousands of times over across the state, and it becomes clear why Florida's ecosystems in areas like Florida Bay, the Indian River Lagoon, and Biscayne Bay are collapsing. The current poor state of many of our shared Florida water resources is clear evidence of the FDEP's failure to adequately protect our aquatic preserves, wetlands, and coastal mangrove environment. Allowing the state to assume sole administration of the Clean Water Act Section 404 program would be a costly regulatory burden to the FDEP, which is already under-resourced for its current responsibilities. Since the EPA won't be providing any federal fundings, these additional responsibilities will divert limited state resources away from critical FDEP duties, and/or place additional financial burdens on county and city permitting agencies and Florida taxpayers. In a state where environmental concerns take a backseat to powerful political and business interests, less oversight is a recipe for environmental and economic disaster for our tourism economy. Please stop the FDEP from assuming jurisdiction. Thank you.

01:32:28 Jeanenne Gettle: Thank you, Miss Chiappetta. I have no follow-up questions.

01:32:38 Jan Connery: Okay. We are ahead of schedule, still, so we're going to circle back to-- is it Chris Michaelessi, I think? Please go ahead. Would you please say and spell your name for us, because you're a standby speaker? And then you'll have five minutes for your comment.

01:32:59 Chris Michaelessi: Can you hear me?

01:33:00 Jan Connery: Yes, we can.

01:33:02 Chris Michaelessi: Excellent. Thank you for your help. It's Chris, C-H-R-I-S, Michaelessi, M-I-C-H-A-E-L-E-S-S-I. I'm calling in under an alias for fear of retaliation from my former and current employer. My former employer is the Water Management District. I would like to commend Sandra for her number one example because that is what I have seen repeatedly in my position. I am an environmental engineer who worked with the State up until Rick Scott's beheading of everyone. I did not plan to speak. However, this is a very important problem that we face right

now. My unique perspective, along with Allison Kelly's, provides me the firsthand knowledge and experience of the permitting and enforcement sides of the state and the federal government. The new water rule, unfortunately, that was just passed several months ago, eliminates many of the provisions for wetland protections that we once had. This is the final speed bump for the developers of Florida to pave Florida for no other reason than political, and for padding of pockets of politicians. If they no longer have to go to the Army Corps of Engineers, they will obtain their permits within 30 days. That is statutorily how it works.

01:34:22 After Rick Scott, there is no more review of these huge, large-acre projects, unless the Army Corps gets a hold of them and does their scrutiny. My firsthand knowledge, since the passing of the new water rule, is in the last few months, over 600 acres of wetlands have gone without mitigation. We are now going to pass that baton to DeSantis and his cronies in order to pave all of the rest of the interior of Florida. We have red tide. We have Lake Okeechobee. We have this St. Johns River. Our water quality is horrendous in Florida because, at this point, the developers are taking over. I'm not going to reiterate what everyone else has said, because they are 100% correct, except for the one commenter. Approving this assumption is detrimental to Florida's ecology. It is 100% in the developer's pockets. The only goal of this is to get permits out the door faster. We would have been better off taking the money for this rulemaking, providing it to the Army Corps of Engineers in order to provide them better computer systems, in order to do a better, quicker, faster evaluation. Ultimately, that's what we need. It's unfortunate that we've lost all the wetland acres that we have and this is going to only perpetuate that faster. Until we get a new political system in place in Florida, this is the worst idea I have ever seen, besides the new water rule. That is all I have to say and thank you for your time.

01:35:59 Jeanenne Gettle: Thank you. I have no clarifying questions.

01:36:03 Jan Connery: Okay. We're going to go to our next standby speaker. That's Brad Cornell. Please say and spell your name for us, Brad, let us know your affiliation, and then you'll have five minutes.

01:36:21 Meredith Outterson: Hi, Brad. So you're showing as unmuted but we currently can't hear you. Can you try speaking up or speaking into the microphone? Okay. It seems like we're having a tech issue with Brad. Brad, I'll send you a chat message with some ideas and try to help you fix the issue.

01:36:43 Jan Connery: Okay. Well, we are, right now, Jeaneanne, a little over 20 minutes ahead of schedule. So this might be a good time-- we're roughly midway through. It might be a good time for a break until, maybe, 7:00. Our next group is booked to start at 7:15, so we'll still be ahead of schedule if we reconvene it at 7:00.

01:37:14 Jeanenne Gettle: We can reconvene at 7:00. In the meantime, if people want to raise their hands and we have time to add some people, then we can do that. And we can check to see if anyone who wasn't on before has now joined us.

01:37:28 Jan Connery: Yes, we'll certainly do that. And it's great that we do have time to add speakers. So yes, please do raise your hand during the break for us to let us know. Looks like we, probably, will have time to take, hopefully, everyone who might raise their hand during this hearing. So we'll see you back at 7:00 PM Eastern time.

01:37:49 Thank you.

01:59:20 [silence]

01:59:21 Jan Connery: Hello, everyone. Welcome back to the public hearing for Florida's request to assume administration of the Clean Water Act Section 404 program. This is Jan Connery. I'm with ERG, a contractor to EPA. I'm the facilitator for the meeting. If you're just joining us, we are a little bit ahead of schedule, so we are going to take a few standby commenters. Let me just get to the right slide here. Yeah. We're going take a-- we have a couple of folks who've raised their

virtual hand to let us know they'd like to speak. So we're going to take them. Then, we're going to proceed with speaker group five. And we have several folks from that group who are already here to speak. So you'll be receiving a message from our webinar coordinator, Meredith Outterson, just before it's your turn to speak to give you a heads up that your time is coming. And then, I will call on each person and ask you to start with your name and affiliation, and then you will have five minutes to comment. We'll have a timer displayed so you'll be able to see how well you're doing on time and be able to wrap up within your five minutes.

02:00:34 So right now, we are taking a couple of additional comments, folks who have raised their hands to let us know they want to speak. We may well have a little additional time to take more speakers. So if you're someone who did not sign up to comment but you've decided you would like to do so, as time allows, we invite you to raise your virtual hand. That will signal to us that you'd like to speak. You'll have up to five minutes, just like everyone else. A lot of people take less time. You don't have to take five minutes. That's up to you. And then as time allows, I will be calling on folks in the order in which you raised your virtual hand. So I want you to know that's an option as we start, in fact, to take the next two folks who have raised their hands. The first one is Brad Cornell. For all our standby speakers, we're asking you if you would spell your name, please, for us. Say your name and affiliation, and then start your comment. And, Brad, you will have five minutes at that point, so please go ahead, Brad.

02:01:40 Brad Cornell: Great, thanks. I'm Brad Cornell, and my name's spelled B-R-A-D C-O-R-N-E-L-L, and I'm the policy staff for Audubon Western Everglades, which is an organization founded in 1961, here in Southwest Florida. And I want to say that we really appreciate the opportunity to comment tonight. We do oppose EPA approving Florida's request to assume the Section 404 wetlands permitting program. And I want to share two reasons for that. First, the Memorandum of Understanding between DEP and the wildlife agency that's overseeing the service does not consider an important collaborative regulatory strategy to protect and recover federally listed species, called Habitat Conservation Planning, under Section 10 of the Endangered Species Act. I have personally worked with agencies and landowners and other allies on a large pending HCP in Southwest Florida and can attest to the collaborative strategy's potential to better protect many species on a large regional basis over many decades.

02:03:00 Unfortunately, the assumption application MOU with FWS poorly defines a statewide biological opinion and incidental take permit, neither of which have been done yet. And these appear, to us, to potentially conflict with the HCP Section 10 alternative to single project Section 7 reviews. This, to us, is unacceptable. It's an unacceptable conflict which must be resolved before any consideration of this application. Additionally, the second reason that we want to highlight is something that others have mentioned, and that is that Audubon Western Everglades objects to any wetland regulatory streamlining, combining a federal program with the state program, when both these programs have resulted in over 30,000 acres of wetland losses since 1996 in just Lee and Collier Counties alone. So that fact speaks to the ill preparation and the unready nature of DEP and the Army Corps of Engineers to combine their programs in the state of Florida. We recommend that DEP and the Corps consider strategies to improve their wetland outcomes much closer to a no net loss that is the national and state mandate. So as that, we recommend, again, that EPA deny the application by the State for assumption of the 404 program. Thanks for considering our comments.

02:04:45 Jeanenne Gettle: Thank you, Mr. Cornell. I have no clarifying questions.

02:04:52 Jan Connery: Great. We'll take one more standby speaker and then we'll start speaker group five. Our next standby speaker is Wendy Jenkins. Wendy, please say and spell your name for us, let us know your affiliation, and then you'll have five minutes.

02:05:06 Wendy Jerkins: Good evening. My name is Wendy Jerkins, W-E-N-D-Y, and my last name, Jerkins, J-E-R-K-I-N-S. Thank you for the opportunity to speak. I'm a community member in Broward County and I'm speaking for myself. I oppose Florida's application. I was born and raised in

Florida and it's disheartening to see that the State has not been a good steward of its critical natural resources. Florida has failed to fully protect its most compromised natural resources and it has not demonstrated a full willingness to protect Florida's wetlands and water. I'm concerned about what will happen, should authority be handed to Florida. I oppose Florida's application. Florida needs the critical oversight. Thank you for your time.

02:06:03 Jeanenne Gettle: Thank you, Miss Jerkins. I have no clarifying questions.

02:06:08 Jan Connery: Okay. We're going to go, now, to speaker group five. But, again, if you're listening, if you didn't register to comment, if you would like to make a comment, to the extent time allows, and it probably will, please feel free to raise your hand after we've taken the folks who are here. We will then fit in as many additional commenters as we can who've raised their hand, in the order that your hands are raised. That's your virtual hand, of course. All right. So we're going, now, to speaker group five. And our first commenter is Maureen Long. Maureen, please say your name and affiliation, and then you'll have five minutes for your comment.

02:06:52 Maureen Long: Can you hear me?

02:06:54 Jan Connery: Yes, we can. Very well.

02:06:56 Maureen Long: Thank you. Good evening and thank you for having me speak tonight. I'm Maureen Long. I'm a member of Friends of Fish Island. We're a grassroots conservation group here in St. Augustine, and I'm going to be speaking as a concerned Florida citizen. I oppose the state of Florida's request to assume administration of the Clean Water Act Section 404 program and ask you to consider Florida's unique vulnerabilities and what we, as stakeholders, stand to lose, should this request be granted. For 48 years, I have lived in St. Johns County, where we have seen explosive growth, as the second-fastest-growing county in Florida and the eighth fastest-growing county in the US, with a population increase of over 43% in just the last 10 years. Our community is not alone, as Florida is being developed at breakneck speed, ranking fourth in the country for its growth, with our population numbering over 20 million now, and estimated to be 21 million by next year. In recent years, Florida has experienced population impacts from climate change migration, following devastating Hurricane Maria. In this year alone, we have seen 1,000 people a day move here to seek shelter from the pandemic. Florida is a magnet for population influx. Urban development to meet these growing population needs has put enormous pressure on our limited natural resources, especially in flood-prone coastal areas that are already threatened by, or experiencing the impacts of, rising sea levels. In our community, we are struggling with how to address flooding from king tides and ordinary rain events that are repeatedly damaging businesses and homes. We are struggling with how to make our community more resilient from hurricane storm surge and flooding that seemed to worsen with each year. Careful reviewing permit applications to fill these low-lying areas may prove to be the most important safeguard that we have left. We have left this in order to protect our wetlands, our waterways, and the resiliency of our communities. Permitting to dredge, fill, and develop these areas should not be fast-tracked through state agencies. We also face critical water supply challenges within our state, as we look for ways to provide enough clean water to meet the demands of this rapidly growing population and to protect our aquatic ecosystems that are the lifeblood of our coastal communities, and of our state.

02:09:20 With nearly 6000 square miles of coastal and inland water, our tourism, recreation, and maritime industries are vital to Florida's economy, and all rely on having clean and healthy aquatic ecosystems and waterways. Maintaining an independent and objective review of 404 permits by the Army Corps is critical to ensure that important permitting decisions align with the intent of Florida law-- of federal law. Excuse me. Federal law to protect the interests of our natural resources and to ensure that they are not swayed or influenced by changing political agendas. The employees of the Florida DEP are hardworking people, but with the dramatic cuts to staffing, reductions in expertise, and inadequate enforcement of existing environmental mandates, the Department currently fails to adequately protect wetlands under its existing Environmental

Resource Permitting program. The FDEP combines three separate agencies in one. They serve 67 counties, which are divided into six districts. And they only have nine offices that serve over 58,000 square miles of Florida. The Florida Department of Environmental Protection doesn't have the proper capacity to take over the wetlands permitting that has been run by the US Army Corps of Engineers for decades. It can't even manage to enforce the environmental laws already under its purview. This controversial attempt by Florida DEP to assume authority over Clean Water Act permits the federal government at the request of wealthy developers. This does not sit well with the citizens of Florida. The public has repeatedly raised concerns about the FDEP's failure to meet its existing obligations on wetland protection, mitigation measures, and adequate enforcement of existing programs. The Department should, first, address and fix these issues before seeking approval to undertake a completely new set of responsibilities. Floridians do not want the FDEP to take over the 404 program, as we stand to lose too much from this change. For all of these reasons, I ask the EPA to deny Florida's request to assume administration of the Clean Water Act Section 404 program. Thank you.

02:11:36 Jeanenne Gettle: Thank you, Miss Long. I have no clarifying questions.

02:11:42 Jan Connery: Okay. In that case, we will move to our next speaker. That is Wendy Wood. Please start by stating your name and affiliation, and then you'll have five minutes.

02:11:53 Wendy Wood: Hello, my name is Wendy Wood. I was born and raised here in Florida, and I'm calling in because I oppose Florida's application to take over the permitting process for Section 404 of the Clean Water Act. And our wetlands are integral to the health and wellbeing of all of Floridians, sustaining life for human beings and all the other living creatures who are our neighbors. Earlier in history, people didn't know the importance of our wetlands. Now we know. We don't have an excuse. Let's use that knowledge to protect the remaining fragile ecosystems that we have left. Once water is fouled and wetlands are removed, there is no bringing those fragile ecosystems back. I also urge you to take into consideration that wetlands are carbon sinks and greenlighting development without due diligence will replace these carbon sinks with more impermeable surfaces that require lots of CO2 to manufacture. I know that the Florida DEP is underfunded, it's understaffed, those people are working as hard as they can, and they're often under political attack. They should not be asked to take on more without more funding and binding protections from political retaliation. The feds are more thorough and impartial and they have more funds to oversee the examination process in these fragile ecosystems. So they're just better equipped to look at the whole picture. Once again, I hope that this is denied for the good of all Florida. Thank you.

02:13:57 Jeanenne Gettle: Thank you, Miss Wood. I have no clarifying questions.

02:14:02 Jan Connery: Great. Then we'll go to our next speaker and that is Annette Redwine.

02:14:07 Annette Redwine: Good evening. I'm Annette Redwine. I'm a retired teacher, Alachua County, Florida. I'm going to add my voice to all those that have already spoken, for I, too, believe that it is in the best interests of Florida's citizenry that the federal EPA retain administration for the Clean Water Act Section 404 and not allow the state of Florida to assume its administration. I say it lacks the resources, as everyone has said, both fiscal and human, to properly vet every application put forward. Consideration not only for the immediate future, but for 20, 50, 100 years into our future must be made because experience has taught us that the consequences of decisions made in our past, both intended and unintended, have stretched that far into Florida's future. Florida is a beautiful state. And our waterways, bays, and estuaries are a big part of why our state is so special. Further, these waters are also national treasures. I believe that the safety gateway that's in place to protect these precious resources must remain vigorous, and that careful thought and time for consideration must be given to every application. Having lived in Florida all 71 years of my life, I've witnessed how, when funds are lacking, Florida's legislature is given short shrift to the State's funding of education, ecology, and public health and safety. I've seen wetlands designated as protected in environment, and then, several years down the road,

the designation and the wetlands are lost. I'm sure you're familiar with the rather crass common expression that goes, "When money talks, poop walks." And Florida seems particularly vulnerable to this phenomenon. It is my belief that keeping the administration of the Section 404 within the purview of the federal EPA will get Florida's waters the best protection. Thanks for hearing me.

02:16:15 Jeanenne Gettle: Thank you, Miss Redwine. I have no clarifying questions.

02:16:19 Jan Connery: Okay. We'll move to our next speaker. Juanita is not yet with us, so that is going to be Elise Brady. Elise, please state your name and affiliation, and then you'll have five minutes.

02:16:38 Meredith Outterson: Elise, it looks like you're muted on your end, so please try on muting on your laptop or your headphones so that we can hear you. Still not able to hear you, Elise. If you want to try one more thing and then if not, I will work with you behind the scenes to try to fix the issue.

02:17:02 [silence]

02:17:18 Jan Connery: Okay. Meredith, it looks like, maybe, you'll need to work with Elise.

02:17:23 Meredith Outterson: Yes. It's not working at the moment. So Jan, let's go to our next scheduled--

02:17:27 Jan Connery: We'll go to Jessica. Jessica, please start by stating your name and affiliation, and then you'll have five minutes.

02:17:41 Jessica Dennis: Hi, good evening. Thank you for the opportunity to speak. My name is Jessica Dennis and I'm speaking on behalf of Miami Waterkeeper and our membership here in Miami, Florida. Miami Waterkeeper is a Miami-based nonprofit that works to ensure swimmable, drinkable, fishable water for all in South Florida, and is a member of Waterkeepers Florida and the broader Waterkeeper Alliance. I'm speaking this evening to oppose the state of Florida's request to assume Clean Water Act Section 404 authority from the Army Corps of Engineers. Florida's vast waterways and wetlands are what make Florida, Florida. They are uniquely connected to public health, our way of life, our culture, and our environment. Our state has particularly beloved, yet particularly fragile, areas that are regulated by Section 404 dredge and fill permits, which require the highest level of review and scrutiny. Federal oversight is critical to adequately protect our water resources. A delegation of Section 404 authority to the Florida Department of Environmental Protection would add a costly and extensive regulatory burden to the already under-resourced agency. For example, DEP is already regularly behind in enforcement actions related to the National Pollutant Discharge Elimination System permit program. Miami Waterkeeper and Waterkeeper organizations across the state have initiated an independent NPDES permit compliance review to attempt to bridge this gap in regulatory enforcement, a duty that should not be tasked to a nonprofit organization.

02:19:05 I worked as an intern for Miami Waterkeeper this summer while in law school. Part of my work focused on getting a fertilizer ordinance passed in Miami-Dade County. After a review of the county's two most recent municipal separate storm sewer systems permits, we discovered that the county was over a decade out of compliance with the permit mandate to have a basic fertilizer ordinance. If DEP fails to enforce even the most basic measures required by its own issued MS4 permits, how will it oversee the regulation of the discharge of dredge or fill materials into waters of the United States? Further, the state of Florida just transferred to the DEP the responsibility for regulating over 2,700,000 septic tanks that exist in the State. This is a huge undertaking in and of itself, and it is a stretch of the imagination to think that FDEP could now also accept the obligation to appropriately administer Section 404 permitting. FDEP is not well-positioned to assume the additional responsibilities and permitting demands associated with the 404 program. Additional responsibilities will divert resources away from these critical pre-existing duties.

02:20:08 The Department has wonderful, hardworking staff, but the underfunded Department lacks a quantity of resources, staff, and funding to implement, operate, and enforce the 404 program. Our state is experiencing an economic downturn due to COVID-19 and the Department has felt these effects. Budgets have been cut, staff support has been reduced, and yet, DEP continues with this application that would cost taxpayers millions of dollars just to get off the ground. FDEP should focus on existing obligations, such as enforcement and mitigation, rather than seeking additional responsibilities that we already know they will not be able to adequately oversee. The Department's claims that it can fold a 404 program into its existing programs should be rejected. It is not feasible and it is not tenable for Florida's water resources. There has been substantial public opposition to the State's proposed assumption of Section 404 authority. Despite this opposition and the limits on public participation, the DEP has continued to move forward. This is deeply inappropriate. It is not inclusive and does not reflect the public's position on this matter. I just want to add that I've been listening to every commenter, as you all have, since 5:00 PM today, and I have heard only one comment that was not adamantly opposed to DEP's proposed assumption of Clean Water Act Section 404 authority. On behalf of Miami Waterkeeper, our hundreds of members, and thousands of acres of watersheds, I urge EPA to reject DEP's Clean Water Act Section 404 assumption application package. This assumption is not in the best interests of Floridians or Florida water resources. Thank you.

02:21:38 Jeanenne Gettle: Thank you, Ms. Dennis. I have no clarifying questions.

02:21:44 Jan Connery: Okay. It looks like Elise is ready now. So we will-- sorry. We will go back to-- whoops, go back to Elise. There we go. Elise, please start by stating your name and affiliation, and then you'll have five minutes.

02:22:05 Elise Brady: Good evening. My name is Elise Brady. I am an artist and a climate reality leader. My husband and I have lived in St. Augustine for over 30 years. I am also a concerned Catholic here to bear witness to the state of our fragile environment and our obligation to protect it. In 2015, Pope Francis published Laudato Si, On Care for Our Common Home, a powerful letter to the entire world that urges us to live in communion with nature and each other. As people of goodwill, we understand that all living things are meant to flourish. Our charge to be responsible stewards of the Earth intersects with our mission to seek the common good. The Holy Father, with ecumenical leaders around the world, has made it clear that we cannot sacrifice or commodify nature's resources and people for profit or power. In 2016, Hurricane Matthew raked the coast of Northeast Florida and flooded St. Augustine. The storm brought a seven-foot surge and 275,000 gallons of sewer spillage into our Davis Shores neighborhood and our home. Following the storm, we lived in three places and our damaged home was demolished. We had hoped to rebuild, but less than a year after Matthew, Hurricane Irma struck, and our property was flooded again.

02:23:24 While we didn't realize it at the time, we were climate refugees, part of the growing number of people displaced by natural disasters. In 2018, 1.2 million Americans moved from their homes because of climate change. By 2100, 13 million Americans could be forced to relocate from rising sea levels and submerging coastlines. Indeed, far too many of our fellow Floridians have already suffered this fate. Florida's future is linked in every way to water: our health, livelihoods, cultural expressions, and environment. Wetlands comprise 29% of Florida's landscape, with many connecting to navigable waters. They provide rich habitat for biodiversity and beautiful places for contemplation and renewal. Protecting the delicate balance of our diverse water systems is paramount. If lost, we cannot reclaim it. The governor's pending application to assume Section 404 control of Florida's waters is an experiment of grand proportion in consequence. I am concerned that special interests, state budget constraints, lack of expertise, and potential outsourcing will lead to cutting corners and rubber stamping in the name of streamlining permits. Previous attempts elsewhere have deemed the undertaking far too costly and time-consuming, and have often led to legal disputes. Florida's exploding growth in the reality of global warming pose real threats to all life forms and our way of life. The complexities of coastal

development, toxic pollution, disappearing wetlands, endangered species, groundwater integrity, and sea-level rise resiliency, I believe, are best controlled by federal oversight. This provides a breadth of resources and expertise, coherent coordination of environmental regulations, and transparency. Thus, with all due respects, I ask you to deny Florida's application. In this moment of global crisis and chaos, we find ourselves at a crossroads of biblical proportion. For the sake of those who will inherit our common home, I am hopeful that we will move forward in solidarity with science as our guide, sustainability as our goal, and the common good as our North Star. Thank you for this opportunity to share my views.

02:25:52 Jeanenne Gettle: Thank you, Ms. Brady. I have no clarifying questions.

02:25:57 Jan Connery: Okay. We are now going to move to speaker group six. And we have, I think, all three folks in that group here. We're going to start with Neal. And Neal, please say your name and state your affiliation for us, and then you will have five minutes for your comment.

02:26:26 Neil Armingeon: I'm Neil Armingeon. I am speaking to you as a citizen from Jacksonville Beach. I have spent the last 28 years working for environmental groups and it's indeed ironic that I am here today to, in effect, defend the US Army Corps of Engineers. The 404 project, as it stands, has weaknesses. I, personally and organizationally, have filed multiple lawsuits against the Corps, probably written 150 letters for 404 comments. And yet, given all of that, I'm here tonight to say I oppose transferring the 404 project to the Florida Department of Environmental Protection. I have worked in this field. I have, with the St. Johns Riverkeeper, ended my career as the Matanzas Riverkeeper. Wetland protection is something that has not been at the forefront of any regulatory process. And at least with the EPA and the St. Johns River, for us, St. John's River Water Management District, we felt as if we had some backstop to, at least, file legal challenges, 401 certifications, etc. The idea that the Florida Department of Environmental Protection, FDEP, which, for those of us who know, means "don't expect protection"-- that these people can manage and oversee wetland protection in the state of Florida is ludicrous. I wish I could put it any other way. I doubt if there's any-- very few people in the DEP are prepared to, for example, handle wetland delineation. It, in effect, robs the public from any iota of the federal protection.

02:28:34 We, here in Florida-- the idea that the State is interested in, are participating in, protecting environment is a joke. I, and others on this call, have reminded you of the problems with the discharge permit projects. And so now, to insinuate that a short-staffed, underfunded organization like Florida DEP is now going to handle wetland protection is a farce. It's ironic, really, for me, to sit here and try to defend what has-- I have experience, almost, of three decades of the Army Corps of Engineers and others, protecting wetlands. And yet, that is my position. If we are going to support anything, I would support that the Army Corps of Engineers and the water management districts continue in their roles. What we are facing here is, basically, a political takeover of a protection project. We have a governor who doesn't care about the environment coming out for another governor who doesn't care about the environment. EPA, at its best, was always a backstop to some of these wetland issues. You can always hope - and I stress, hope - the EPA would actually elevate some of this. So the idea that the Florida Department of Environmental Protection has any knowledge, ability, willingness to protect the remaining wetlands in this state, frankly, is a joke. I am here not really expecting anything other than, in effect, you are our last hope. If EPA approves this transfer, then, I would say, the wetlands, the waters of this state have little or no chance of being protected. I appreciate the opportunity to speak to you tonight and, again, let me end by saying the idea that the Florida Department of Environmental Protection gives a damn about protecting Florida's wetlands is a joke. Thank you for this opportunity to participate.

02:31:28 Jeanenne Gettle: Thank you. I have no clarifying questions.

02:31:33 Jan Connery: Okay. Going to move to Chris, and then Diana. After that, we're going to take standby speakers. We have one so far. So I just want to remind everyone with us on the hearing right now, if you're someone who hasn't spoken, you didn't sign up before but you'd like to

speak now, even if it's a short comment, or you can have up to five minutes, we'd love to hear from you. I think we're going to have time to work a few more folks in. The way to let me know you'd like to speak is to raise your virtual hand, and then we will take folks in the order that we see the hands raised. So I invite you to do that if you're interested. And right now, we're going to go to Chris Costello as our next commenter. Chris, please start by saying your name and affiliation, and then you will have five minutes for your comment.

02:32:24 Chris Costello: Good evening. My name is Chris Costello. Am I coming through?

02:32:28 Jan Connery: Very well, thank you.

02:32:30 Chris Costello: Great. Thank you. I am a senior organizing manager with the Sierra Club, and I am speaking on behalf of the Sierra Club this evening. We, like others on the line this evening, agree that the EPA must reject Florida's request to assume 404 permitting authority. While we will submit additional written comments, we want to briefly address here the failure of the EPA and FDEP to ensure meaningful public participation in this process. Neither the State, nor the EPA, has had any legitimate reason to push forward this process during the pandemic. Our experience with virtual meetings during the last seven months and the timing of both the FDEP and EPA virtual public listening sessions on this matter underscore why the public has condemned this process. It has also solidified our understanding of the role actual in-person public hearings play in the democratic process. Virtual participation is an adjunct to a public hearing, but it is not equivalent. During these virtual sessions, as public hearings-- or, I'm sorry, defining these virtual sessions as public hearings ignores the important differences between in-person and virtual-only events and undermines the democratic process. The democratic process is, of course, of the utmost importance.

02:34:20 There is also method to the madness of the timing of the FDEP virtual sessions at the tumultuous beginning of the pandemic lockdown and the timing of the EPA virtual sessions right before the most contentious federal election we have ever experienced. That method is to effectively keep the public out of the process. State assumption is an unfathomable proposal to anyone who understands and appreciates the role wetlands play in the protection of Florida's water resources. It makes no sense, zero sense, when considering the job the State has done, or, more accurately, has not done when it comes to environmental protection. We adamantly and strenuously oppose state assumption. Moreover, we condemn the failure of the EPA and FDEP to ensure what should be the broadest of public participation, considering the import of this matter. Thank you.

02:35:36 Jeanenne Gettle: Thank you, Miss Costello. I have no clarifying question.

02:35:40 Jan Connery: We will move to our next speaker. That is Diana Umpierre. Diana, please say your name and affiliation, and then you'll have five minutes for your comment.

02:35:57 Meredith Outterson: Hi, Diana. It looks like you're muted on your end, so please try--

02:36:00 Diana Umpierre: Hello? Am I okay now?

02:36:03 Jan Connery: Yes. I think you are.

02:36:05 Diana Umpierre: Okay. You hear me okay?

02:36:07 Meredith Outterson: Yes, we can now. That sounds good, Diana. Please go ahead.

02:36:11 Diana Umpierre: Thank you very much. So my name is Diana Umpierre. I live in South Florida, just a few miles from the edge of what remains of the Everglades, a river of grass. I currently work for Sierra Club as the organizing representative for their Everglades Restoration Campaign. I also served as a volunteer chair of the International Dark-Sky Association for a chapter that seeks to protect the nocturnal environment, which is significantly important to the waters of the US, since so many species live there. I also worked for years as a geologist, sampling contamination in waters of the US, so I am very familiar with what is possible with a well-managed, well-staffed,

well-enforced, well-monitored 404 program under the Clean Water Act. I also work as a geoscientist for the Water Management District-- the South Florida Water Management District. And I was there when, in 2011, the former governor Scott slashed funding and laid off hundreds of employees from the Florida Department of Environmental Protection and the water management districts, including people that were very much involved in regulatory permitting and enforcement. I'm sure that is why he was able to brag once, and I quote, "Florida has successfully reduced its environmental permitting time down to just two days. And that's great." Well, end of quote.

02:37:39 I have a zillion reasons to express this strong opposition. As has been stated, Sierra Club very much opposes Florida assuming the 404 federal program permitting. To give an example, while Sierra still opposes the current design and keeps demanding a better design for the EAA Reservoir and the Stormwater Treatment Area that's part of Everglades restoration, we are very grateful that, thanks to the 404 permitting process that is under the Army Corps of Engineers, NEPA has been there to provide additional time for impact analysis, for an EIS, for more public input for a project that both the water management district and the Florida Department of Environmental Protection, the FDEP, wanted to rush. 404 permitting of the STA, which was done by the Army Corps, included a number of special conditions that I'm sure the DEP would not have mandated, changes that included things to deal with seepage concerns to, also, adding more monitoring to deal with a lot of uncertainty about water quality. Florida simply does not have a state law that parallels NEPA, which some has often referred to as democracy in action.

02:39:00 So we're very concerned with turning federal actions into state actions because they will impact the level of review, the interactions that go on between the federal and the state government agencies. We're very concerned that the State would have far less data and would no longer be subject to the kind of rigorous review that environmental impacts-- that, basically, will be mandated under NEPA, including project alternatives analysis. They will, basically, fast track development permits for developer interest, or for politicians that simply love press conferences to claim victories and rework cutting, instead of projects that actually cleaning our water, restoring wetlands, and protecting wildlife. FDEP does not have the check and balances that are needed when they review 404 permits. Essentially, if you approve this application, you will, essentially, be allowing the fox to guard the henhouse. And so we ask the EPA to please deny this application. Thank you very much.

02:40:18 Jeanenne Gettle: Thank you, Miss Umpierre. I have no clarifying questions.

02:40:25 Jan Connery: Okay. Those are all the folks who we have right now who have registered. We'll be keeping an eye out for folks who registered and were in line to speak earlier but haven't shown up. But in the meantime, we are going to go now to our standby speakers. I'm happy to see that three folks have raised their hand, in addition to the person we had to start with. So we've got four people on standby. And so anyone else is invited to raise their hand. We've got about 20 minutes, so I think we can at least fit the four in. We're going to start with Georgia Ackerman. And for everyone who's on standby, we're going to ask you not just to say your name but, also, to spell it for us so we have that for the record, and state your affiliation, and then you'll have up to five minutes to comment. So Georgia, please go ahead.

02:41:25 Meredith Outterson: Hi, Georgia. It looks like you're muted on your end, so please press the mute key on your keyboard or your headset so that we can hear you. Great.

02:41:35 Georgia Ackerman: Good evening. Thank you for coaching. I'm Georgia Ackerman. Georgia, just like the state, Ackerman, A-C-K-E-R-M-A-N. I'm riverkeeper and executive director at Apalachicola Riverkeeper. Thank you for the opportunity to provide comments. I'll be brief, as the concerns expressed by others across the state of Florida have been so well stated and I strongly echo their opposition. The EPA has many compelling, uplifting quotes on one of their web pages on environmental stewardship. And I wanted to share one with you that President George W. Bush made in the early 2000s. And he said, I quote, "Good stewardship of the

environment is not just a personal responsibility. It's a public value, our duty to use land well, and, sometimes, not to use it at all. This is a responsibility as citizens, but more than that, it's a calling as stewards of the Earth."

02:42:32 Apalachicola Riverkeeper is a member of Waterkeepers Florida and the international Waterkeeper Alliance. Waterkeepers are stewards of their watersheds. Like Dr. Seuss's beloved character, the Lorax, who speaks for the trees, waterkeepers speak up for our waterways on behalf of all Florida citizens. Apalachicola Riverkeeper is an independent non-profit organization of over 1,400 members. For over 20 years, we've been committed to the protection and restoration of the Apalachicola River and Bay. The Apalachicola River is Florida's largest in volume, and it flows over 100 miles through Florida's largest forested floodplain, from the Georgia-Florida line to the Gulf of Mexico, where it supports the productivity of the Apalachicola Bay and the eastern Gulf of Mexico. The region is recognized internationally for its biological diversity, much of it due to the vastness of its wetlands. It must remain well-protected. Apalachicola Riverkeeper, like St. Johns Riverkeeper, Matanzas Riverkeeper, Miami Waterkeeper, and all Waterkeepers Florida, oppose Florida's request to assume administration of the Clean Water Act Section 404 program. We will submit a detailed letter prior to the November 2nd deadline. Please deny this request. Thank you for your time.

02:43:50 [silence]

02:44:01 Jeanenne Gettle: Thank you, Ms. Ackerman. I have no clarifying questions.

02:44:05 Jan Connery: Great. We'll go to our next standby speaker and that is Holly-- and I hope I'm saying this right, Holly Schwartz. Anyway, you can tell us how you say your name, and also, please spell it for us and let us know your affiliation, and then you'll have five minutes.

02:44:25 Meredith Outterson: Holly, please check the mute on your end. There you go.

02:44:29 Holly Schwartz: Okay. Hi, you can hear me? Thank you.

02:44:32 Yes, we can. You're good.

02:44:34 Great. My name is Holly Schwartz. It's spelled H-O-L-L-Y S-C-H-A-R-T-Z. Somewhere, the Z disappeared. I am a policy associate with the Sanibel-Captiva Conservation Foundation in Lee County, Florida. And we advocate for environmental issues throughout the entire county. And, of course, I'd want to completely support all of the comments that have been made in opposition to this assumption. But I wanted to add that many of the speakers listed talked about DEP's lack of resources as a concern of implementing this program. And I'd like to provide some additional evidence to support that concern. And it would come from Florida's own transparency website, transparencyflorida.gov, which lists and shows a vacancy rate-- or a vacancy list of 279 positions for DEP alone. And before you get too excited and think, "Oh, great, they're going to fill 279 positions," it could be that those positions have been zeroed out and have just been sitting there. And I can tell you that we've been monitoring that vacancy rate for several years and it hasn't gotten any better. So that would lead one to be continually concerned that they are going to still continue to face a lack of resources. And I'm really glad that one of the previous speakers had mentioned the statutory requirement when ERPs are filed that they must be responded to within 30 days. I mean, that just further exacerbates the review time for such an important resource. So I'll keep it pretty brief and just say, I support the opposition and all of the comments made previously. And please consider how vitally important wetlands are to the state of Florida before approving or considering approval of this proposal. Thank you.

02:46:48 Jeanenne Gettle: Thank you, Miss Schwartz. I have no clarifying questions.

02:46:52 Jan Connery: Okay. We will move our next standby speaker, that is Sarah Younger. Sarah, please say and spell your name for us, let us know your affiliation, and you'll have up to five minutes for your comment.

02:47:11 Meredith Outterson: Hi, Sarah. We can't hear you yet. Please check the unmute your end.

02:47:18 Sarah Younger: Hi, my name's Sarah Younger. And that's spelled S-A-R-A-H Y-O-U-N-G-E-R. I live in Alachua County here in Florida. I'm speaking as a resident of the headwaters for the Floridan aquifer. I am very concerned if the State were to assume the role of permitting for the Section 404, or rulemaking 404 permits, as I understand, that that would lead to, perhaps, a faster track for development in our region. I understand that states have to demonstrate that their jurisdiction's equal in scope to the federal laws regarding the waters of the US and prove that their program is consistent with federal laws. I think it's clear that the State has been failing in its duty, as it stands right now. In fact, our water flows here in the springs have been reduced and we're very concerned about-- that the water quality concerns. And it also has to show that they'll have adequate funding because you can expect that the State would have to spend money in order to assume a program of this type. And if we've seen anything, it's that our state legislature has not been funding programs that serve to protect our environment at this time, in any that it demonstrates that they're able to bring these rivers back out of recovery, other than by changing the rules, which is where we are right now. So I'm urging you to reject this notion that they're ready to assume this program. And as a citizen of North Central Florida, I urge you to heed the advice of those who have been on this call. Also, undertaking this role as a river waterkeeper here as many of us have, we do also know the challenges of getting word out about these rules and how they get changed and how to be present for these meetings. I only learned of this meeting earlier today and I am a person who watches for these types of announcements. So I urge you to think about how you're making this information available to the public because it is evident to me that you're failing at that as well. So please do not grant the State this authority. They're not ready to receive that authority. And I thank you for your time.

02:50:17 Jeanenne Gettle: Thank you, Miss Younger. I have no clarifying questions.

02:50:22 Jan Connery: Okay. We have one more stand by commenter right now. And I think we could take an additional one. If there's someone who did want to raise their hand, you could do that. But right now, we're going to Susan Caruso. Susan, please start by saying and spelling your name for us and stating your affiliation, and then you'll have up to five minutes for your comment.

02:50:47 Susan Caruso: Hi. Good evening. My name is Susan Caruso, S-U-S-A-N-C-A-R-U-S-O. I am down here in Broward County with the Broward Sierra Club and I don't really have much to add to all the eloquent speakers who have gone before me tonight. But it seems I agree that the EPA should not grant the state of Florida's request and that they have a long way to go to prove that they have the wetlands in their best interests-- in the best interests of the citizens of the state of Florida. So thank you for the time to comment. That's all I have. Thank you.

02:51:35 Jeanenne Gettle: Thank you, Miss Caruso. I have no clarifying questions.

02:51:39 Jan Connery: Great. Well, we have another standby commenter, which is great. And I think we would have time for one more, if someone else would like to raise their hand. But right now, we're going to go to Matthew Schwartz. You probably know the drill, Matthew, but please state and spell your name, let us know your affiliation, and then you'll have up to five minutes.

02:52:04 Matthew Schwartz: Okay. So my name is Matthew Schwartz, M-A-T-T-H-E-W S-C-H-W-A-R-T-Z. I'm with the South Florida Wildlands Association, a regional organization that works on habitat and wildlife conservation in the Greater Everglades. And I spoke at the first meeting. I didn't think I was going to get to this one but somebody just called me and said you guys are going late. I'm out in the woods in Central Florida right now. But I want to bring up - and I'm just going to focus on one issue - this decision is coming at a time when the state of Florida, the lead agency is Florida Department of Transportation, is trying to get approved, the M-CORES project and that's 320, 330 miles of new highway from Collier to the Florida-Georgia border. That highway is going to be going through wetlands. It's going to be crossing streams and rivers. It's going to need all kinds of wetlands permits. And, normally, those would go through the Army Corps of Engineers.

02:53:11 We've been through this many, many times with these kinds of projects. I mean, not a project of this scale, I have to be honest. M-CORE is off the scale. I've never seen a project like that in the time I've been doing this work. You have to hearken back to the 1950s and the Florida Turnpike or the Cross Florida Barge Canal to get to a project of this size. This is a massive project with massive impacts to wildlife, wetlands, springs, all kinds of things. But the Army Corps would typically review a project like this, go into [inaudible] with the Fish and Wildlife Service if there was a chance of harm to endangered species. There's all kinds of endangered species that are in the corridor of M-CORES. So the fact that this request is happening now, I don't know. I mean, this has been something we've heard over the years. Is it in relation to M-CORES? Not sure. But we don't want this agency learning the ropes when M-CORES is going through wetlands permitting and they're going to permit 320 miles of new highway across wetlands in Florida and they're going to be the ones to consult with the US Fish and Wildlife Service, never having done it before. This is definitely not the time. Even if there was a time, start them out on some small projects. M-CORES is coming. They just finished the task force meetings. So M-CORES is in the pipeline. And the next step after the task forces released their final report in the middle of November, is they're going to start planning a route-- routes for 330 miles, 320 miles of new highway. And it's going to be a very, very difficult process. And we don't want this to happen. It's not that we have so much faith in the Army Corps of Engineers or the EPA to protect our interests in this issue. But at least there's a process in place to deal with these things. We've gone through it many, many times. The Army Corps knows the route, knows how to do this. The EPA has gotten involved in some projects and has weighed in on some projects.

02:55:22 The state of Florida-- I think people have said-- I didn't get to hear many of the comments but the person I spoke to on the phone was Drew Martin. He'd conveyed to me that a lot of the reason behind this, and I feel the same way, is that this is all about speed. The Army Corps doesn't deny applications, as a rule. But they do take their time. They do due diligence. They go through NEPA, when necessary. They turn it over to the Fish and Wildlife Service. What we think is happening here is just the developers don't want the delay. They want to speed this up. And the DEP is very willing to do that. So, in summary, don't do this. Keep the process. Keep the review process within the federal government. We have a new administration coming in. I don't know that. I don't know that, excuse me. I have no clue if that's happening or not. But if a new administration comes in, who knows what the new policies on the federal side will be. And maybe, they'll be a little bit more environmentally friendly and realize that we're in a different time now.

02:56:29 I mean, the secretary of the Department of Transportation was lauding the Florida Turnpike. They said, "Look what we did in the 1950s with the Florida turnpike. We could do it again today." Florida was a completely different state in the 1950s, in terms of population. I think the population in 1950 was somewhere in the neighborhood of 3 million, under 3 million; about the population of Miami-Dade today. So take the population of Miami-Dade, what it is today, spread it out over the entire peninsula, you'll have a sense of what Florida looked like in the 1950s. And here's a state secretary of transportation saying, "This was the good old days." So is that what he thinks is the good old days, doing another Florida turnpike at this point when so much wildlife, so much wetlands, the algae problems we have, the overcrowding, the quality of life--? Florida is an-- I mean, I'm sorry, Florida's an ecological disaster. It's a joke to most people who come here and they see the sprawl. Anyway, I could go on and on with this. I think you get the point. I think this is not the time to transfer this authority from the federal government to the state government, especially with the biggest project we've ever seen at the door. So thank you for listening to the comments and willing to take questions if you have any.

02:57:46 Jeanenne Gettle: Thank you, Mr. Schwartz. I have no clarifying questions.

02:57:51 Matthew Schwartz: Thank you.

02:57:54 Jan Connery: We have just one more person who has raised their hand. So this is going to be our final commenter. And that is Barbara Anjelucci. Barbara, you're going to start by saying and spelling your name, letting us know your affiliation, and then you'll have five minutes.

02:58:15 Barbara Anjelucci: Can you hear me?

02:58:17 Jan Connery: Yes, we can.

02:58:21 Barbara Anjelucci: Okay. My first name is Barbara. The last name is Anjelucci, A-N-J-E-L-U-C-C-I. I'm a resident of Florida. And I just want to tell you that many people move to Florida for the sunshine and its waters, generating billions for our economy. Wetlands play an integral part in that. And also, in cleaning pollutants out of water and control flooding. They must be protected and be highly regulated. NEPA provides for an EA or an EIS and public participation opportunities. States are not required to follow federal law, leaving our wetlands and ecosystems open to destruction and citizens' voices silent. In July of this year, the Trump administration announced rollbacks of a big [inaudible] environmental law, which they say will benefit the economy by speeding up construction projects. Overthrowing NEPA is one of the most dramatic changes the president has attempted to make to slash an environmental policy, though he has pushed to roll back at least 100 environmental rules. NEPA was enacted to require federal agencies to determine the possibly detrimental effects that major projects could have on surrounding environment. This NEPA requires government agencies to engage in, is intended to discover not only to [inaudible] effects that construction could have on climate change, but also takes into account how massive a public health crisis could affect citizens living nearby to proposed sites. Contamination and unprotected streams and rivers often flow into larger bodies of water, including drinking water sources.

03:00:36 Wetlands are more important than ever and should be protected by regulations. In light of all the above, we cannot trust the state of Florida to take over federal permitting. The other thing is that these virtual hearings, two of them, when this discussion has long term consequences. What about the people that have no technology? The EPA needs to conduct public hearings, when the time is appropriate, across the state. Because to move ahead with this with only two virtual hearings when the public cannot meaningfully participate does not provide due process to citizens. And also, I'd like to hear from the Army Corps. Have they been silenced on this? Well, I will tell you what I think. And I'm sorry if you're furrowing eyebrows. But this reversal of oversee of Section 404 is brought forward by industry polluters who look to satisfy their greed and profit at the expense of public health and destruction of our environment. Needless to say, I am totally against the state of Florida taking over Section 404. It truly is "Florida, don't expect protection". Thank you.

03:02:29 Jan Connery: Ma'am, could you spell your last name for me again?

03:02:32 Barbara Anjelucci: I'll do it again. It's A-N-J-E-L-U-C-C-I. The first name is Barbara.

03:02:46 Jan Connery: Thank you. Thank you, Barbara.

03:02:52 Jeanenne Gettle: I have no clarifying questions.

03:02:54 Barbara Anjelucci: Thanks.

03:02:57 Jan Connery: Jeaneanne, we are just a tiny bit over and we do have one more person who'd like to speak. Could we go for another couple minutes or so?

03:03:05 Jeanenne Gettle: Okay. We will do one more commenter, and then we will have to close out at that point in time.

03:03:13 Jan Connery: Yep. I think she had raised her hand just as I was saying we didn't have anymore. And that is our last one with the hand raised. So we are going to go to Susan Hill as our final

commenter. Susan, you probably know what to do. But state and spell your name for us, your affiliation, and you'll have up to five minutes. Please go ahead.

03:03:31 Susan Hill: Thank you for allowing me to speak. Can you hear me okay?

03:03:34 Jan Connery: Yes, just fine.

03:03:36 Susan Hill: My name is Susan Hill, S-U-S-A-N, last name H-I-L-L. And I've listened very carefully to all of the speakers and I agree with all of them in opposition to the assumption by the Florida Department of Environmental Protection to assume the responsibility for the 404 permitting process. If you decide to grant this, you will be delivering the final blow to our environment. And I would say to you, as someone who was born in Miami and have lived 60 some years in this state, that the people you have heard tonight are the only voices that we have in this state for Florida's environment. Imagine if you couldn't go home again to the place where you were born and grew up because it was rapidly becoming underwater and red tide was so severe that you wouldn't be able to breathe, or end up in the hospital, or have to move from your coastal home inland to get away from it. That is not an exaggeration of the state of Florida's environment. I remember. I was a kid in Miami in the 1950s and I can tell you that what has happened in just my lifetime is atrocious. And, in part, it is the responsibility of our state, who have not been good stewards of our environment. Florida has many vulnerabilities, as other speakers have mentioned. We are a magnet for people from all over the country coming and moving here. And I will tell you that since my retirement from the University of Florida four years ago, I've been involved in a lot of environmental efforts in the St. Augustine area. And developers have an overbearing reach to our politicians in this state. And that is not an exaggeration. And I am not too old to beg you to please do not approve this request by the Florida Department of Environmental Protection. If you do it, our environment here, our coastal wetlands, our waterways will be finished. Thank you so much for paying attention and allowing me to speak.

03:06:03 Jeanenne Gettle: Thank you, Miss Hill. I don't have any clarifying questions.

03:06:07 Jan Connery: Okay, well, that was our last commenter. So it's back over to you, Jeaneanne, for your closing remarks.

03:06:15 Jeanenne Gettle: Thank you. I would like to thank each of you for your participation in the public hearing. The comments that are received will be considered and evaluated as 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, comments received both in writing and from the public hearing. If EPA approves the State's 404 program, a notice of decision will be published 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. His information is on the screen, at 404-562-9262 or at 404assumption-florida@EPA.gov. All of that is on the screen. Again, I thank you for your participation. If you have any other questions or comments, you can always reach EPA using the methods listed in the public notice and on the EPA's Region 4 website and in the Federal Register notice at regulations.gov. This hearing is adjourned. Thank you for your participation.