UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GEORGIA 30303-3104

December 16, 2020

The Honorable Noah Valenstein, Secretary
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Subject: EPA Response to Comments Received During Consultation Under the National Historic Preservation Act Regarding the State of Florida's Request to Assume Administration of a Clean Water Act Section 404 Program

Dear Secretary Valenstein:

On September 2, 2020, the U.S. Environmental Protection Agency invited the Florida Department of Environmental Protection (FDEP) to consult under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, regarding the request from the State of Florida to assume administration of a Clean Water Act Section 404 program. On September 15, 2020, your office responded by email and accepted EPA's invitation to consult. EPA and FDEP's continued communication during the consultation process is summarized in Enclosure A.

Provided in Enclosure B is a responsiveness summary that includes EPA's responses to comments received from FDEP and the other consulting parties during the consultation process. We are providing the complete responsiveness summary per the request of the Advisory Council on Historic Preservation (ACHP) and agreement of the consulting tribes during a December 14, 2020 meeting. EPA intends to execute a Programmatic Agreement (PA) pursuant to Section 106 of the NHPA with the ACHP, the Florida State Historic Preservation Officer, and FDEP prior to acting on the State of Florida's request and will send the FDEP a copy of the PA once executed.

We appreciate your engagement throughout the consultation process and your important feedback and input on the PA. If you have any questions regarding this matter, please contact me at (404) 562-9345, or have a member of your staff contact Mr. Kelly Laycock at (404) 562-9132 or laycock.kelly@epa.gov.

Sincerely,

Jeaneanne M. Gettle, Director
Water Division

Enclosures:

A. Summary of Communication Between EPA and the Florida Department of Environmental Protection During Consultation Under Section 106 of the National Historic Preservation Act with Respect to the State of Florida's Request to Assume Administration of a Clean Water Act Section 404 Program
B. Responses to Comments from the NHPA Consulting Parties

cc: John Truitt, Deputy Secretary for Regulatory Programs, Florida Department of Environmental Protection

Enclosure A:

Summary of Communication Between EPA and Florida Department of Environmental Protection (FDEP) During Consultation Under Section 106 of the National Historic Preservation Act with Respect to the State of Florida's Request to Assume Administration of a Clean Water Act Section 404 program

- 9/2/20: EPA letter issued to the State inviting them to consult under the National Historic Preservation Act (NHPA) Section 106.
- 9/4/20: FDEP email to EPA providing points of contact regarding NHPA consultation.
- 11/25/20: EPA email to consulting parties transmitting draft Programmatic Agreement for review and comment.
- 12/1/20: EPA call with the Florida State Historic Preservation Officer and the State to discuss draft PA.
- 12/2/20: EPA hosted call with consulting parties to discuss draft PA.
- 12/10/20: EPA email to consulting parties transmitting revised PA.
- 12/14/20: EPA hosted call with consulting parties to discuss revisions to PA.