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

December 17, 2020

Dr. Roy E. Crabtree
Regional Administrator
Directorate Office
NOAA Fisheries Service
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: Response to Correspondence from the National Marine Fisheries Service (NMFS) regarding the State of Florida's Request to Assume Administration of a CWA Section 404 Program and Notice of EPA Decision

Dear Dr. Crabtree:

The U.S. Environmental Protection Agency appreciates the correspondence provided by the NMFS Southeast Regional Office regarding Florida's request to assume administration of a Clean Water Act Section 404 program.

We received an email from Mr. David Bernhart on September 3, 2020, that acknowledged the EPA's "no effect" determination under Section 7 of the Endangered Species Act and confirmed the close coordination between NMFS and Florida on the potential for effects to endangered and threatened species under the NMFS' jurisdiction. We also received a letter from Ms. Virginia Fay on October 30, 2020, indicating that the Habitat Conservation Division: reviewed Florida's application; did not request EPA initiate Essential Fish Habitat (EFH) consultation under the Magnuson-Stevens Act; and did not offer conservation recommendations. Ms. Fay's letter also indicated EFH consultation on this action is not necessary unless future modifications are proposed that may result in adverse impacts to EFH. Ms. Fay's letter also noted that EPA did not make an effects determination and that consultation is not required if a federal agency determines their action will not have adverse impacts on EFH. Following receipt of your letter, EPA documented its determination that approving or disapproving Florida's request to assume administration of a CWA Section 404 program will not have an adverse effect on EFH.

EPA has determined that Florida's program has the necessary authority to operate a CWA Section 404 program in accordance with the requirements found in CWA Section 404(g-l) and EPA's implementing regulations. Accordingly, EPA has approved Florida's assumption of a CWA Section 404 program and Florida will begin administering this program upon publication of EPA's approval in the Federal Register.

We appreciate NMFS' coordination efforts to ensure a smooth transfer of permitting responsibilities in waters assumed by the State. If you have any further questions regarding this matter, please do not hesitate to call me at (404) 562-9345 or have a member of your staff contact Mr. Kelly Laycock of my staff at (404) 562-9262 or 404Assumption-FL@epa.gov.

Sincerely,

Jeaneanne M. Gettle, Director
Water Division

cc: Mr. Chris Oliver, Assistant Administrator for Fisheries
NOAA Fisheries Directorate

Ms. Virginia M. Fay, Assistant Regional Administrator
NOAA Fisheries Service

Mr. David Bernhart, Assistant Regional Administrator
NOAA Fisheries Service