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

September 2, 2020

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

Subject: Consultation Under the National Historic Preservation Act Regarding the State of Florida's Request to Assume Administration of a CWA Section 404 Program

Dear Secretary Valenstein:

On August 20, 2020, we received the request from Governor DeSantis for the State of Florida to assume administration of a Clean Water Act (CWA) Section 404 program. The Environmental Protection Agency would like to initiate consultation with your Department under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, regarding this matter.

The NHPA establishes historic preservation as a federal agency policy and provides for the identification and protection of historic properties. Section 106 of the NHPA requires federal agencies to take into account the effects of their actions (known as "Federal undertakings" in the statute and NHPA regulations) on historic properties that are listed or eligible for listing on the National Register of Historic Places and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings.

Federal undertaking is defined in the ACHP's implementing regulations (36 CFR § 800.16(y)) to mean "a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval." The federal agency must determine if its action is an undertaking, and if so, whether the undertaking has the potential to cause effects to historic properties. See 36 C.F.R. § 800.3(a). Historic properties are defined in the NHPA regulations to mean prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. See 36 CFR § 800.16(l).

The approval of the State of Florida's request to assume a CWA Section 404 program is a federal undertaking with the potential to cause effects to historic properties. In accordance with 36 CFR § 800.3(f)(1), the EPA invites you or your designated consultation representative(s) to participate in the Section 106 consultation process prior to a final Agency action on Florida's request. The timeline for the consultation process begins with this letter. Please let us know within 30 days of receiving this

letter if you wish to consult on this undertaking. Due to COVID-19, the consultation meetings will be held by phone or through virtual meeting platforms.

We look forward to consulting with your office on any potential effects of this undertaking on historic properties. 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 GETTLE

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Date: 2020.09.02 08:34:10 -04'00'

Jeaneanne Gettle, Director
Water Division

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