



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
04E00000-2021-F-0001;
04E00000-2021-B-0001

November 19, 2020

Jeaneanne M. Gettle
Director
Water Division
Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

Dear Director Gettle:

This letter transmits the U.S. Fish and Wildlife Service's Biological Opinion (BiOp) based on our review of the Environmental Protection Agency's (EPA) potential approval of the State of Florida's request to assume permitting authorities under section 404 of the Clean Water Act, and the effects of an approval on listed and proposed species and their designated and proposed critical habitats, in accordance with section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), and the Interagency Cooperation Regulations (50 CFR 402).

As discussed in the BiOp, after evaluating the State of Florida's 404 regulatory program that would take effect if the request is approved and EPA's regulations governing Federal oversight of CWA 404 programs assumed by a state or tribe, in accordance with the ESA and its implementing regulations, the USFWS's biological opinion is that EPA approval of Florida's assumption of the CWA 404 program in assumable waters would not be likely to jeopardize the continued existence of proposed or listed species or destroy or adversely modify designated or proposed critical habitat. We based this conclusion on EPA's biological evaluation (BE) and supplemental information as described in the attached BiOp, including a memorandum of understanding between the Florida Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission, and USFWS (Florida-USFWS MOU) that establishes a framework for coordinating USFWS review of State 404 permit actions. The EPA BE and Florida-USFWS MOU are included as appendices to our BiOp. A complete record of this consultation is on file at this office.

This concludes formal consultation pursuant to section 7 of the ESA. We have no further comments on the EPA's potential approval of the State of Florida's request to assume permitting authorities under section 404 of the Clean Water Act. If you require further assistance or have any questions or concerns about this consultation or the consultation process in general, please contact me or Dr. Heath Rauschenberger (904-731-3203, heath_rauschenberger@fws.gov) of my staff.

Sincerely,

Robert W. Tawes
Chief, Division of Environmental Review