



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

The Honorable Aimee Jorjani, Chairman
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001

Dear Chairman Jorjani:

It was a pleasure speaking with you recently about the Advisory Council on Historic Preservation (Council) and your important work. I also appreciated the opportunity to discuss EPA's role in reviewing and approving Clean Water Act (CWA) Section 404 program assumption requests.

On August 20, 2020, the State of Florida submitted a request to assume the CWA Section 404 program. EPA has determined that its approval of a state program would be a Federal undertaking pursuant to the National Historic Preservation Act (NHPA) and implementing regulations. Therefore, in accordance with the Council's regulations at 36 CFR Part 800, EPA plans to initiate a programmatic consultation under Section 106 of the NHPA on Florida's CWA Section 404 program assumption request. EPA anticipates inviting consultation with a number of parties, including the Council, the State Historic Preservation Officer (SHPO), the Florida Department of Environmental Protection (FDEP), the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the Poarch Band of Creek Indians. We also anticipate developing a Programmatic Agreement, consistent with the Council's regulations.

EPA will issue a *Federal Register* notice soliciting public comment on Florida's proposed program and announcing and soliciting public comment on any potential effects on historic properties. Importantly, the SHPO and FDEP have already signed an Operating Agreement to provide for the protection of historic properties should EPA approve Florida's CWA Section 404 program assumption request. EPA envisions that the Programmatic Agreement will build upon the process set forth in the Operating Agreement. You will be receiving a formal letter initiating programmatic consultation from Jeananne Gettle, Director of EPA's Region IV Water Division.

EPA looks forward to coordinating with the Council on Florida's request to assume the CWA Section 404 program and consulting on future state or tribal CWA Section 404 program assumption requests. Please feel free to contact me, or have your staff reach out to Mindy Eisenberg, Associate

Director of the Oceans, Wetlands and Communities Division, at eisenberg.mindy@epa.gov should you have any questions about CWA Section 404 program assumption or EPA's position on NHPA Section 106 consultations.

Sincerely,

David P. Ross
Assistant Administrator