this area is critical to adequately protecting our waterways. The federal authority to govern our waters has its origins in the Commerce Clause of the Constitution due to the central role that our waterways play in interstate commerce. Traditionally, wetlands have been subject to federal jurisdiction as well due to their critical role in providing watershed connectivity. As such, CWA authority should remain with the federal government. Any delegation to the state would be inappropriate and incongruous with the spirit of the law. Our organizations vehemently oppose the state of Florida's attempt to assume this authority.

Furthermore, assumption of this process by FDEP would eliminate the additional scrutiny of federal laws that apply to federal permits actions. For example, Section 7 of the Endangered Species Act mandates direct consultation with the United States Fish and Wildlife Service for any federal activity that may affect a federally listed species. Florida's waterbodies provide critical habitat to a variety of listed species. The survival of these species depends on diligent protection of the water on which they depend. Additionally, the National Environmental Policy Act (NEPA) requires federal agencies to prepare an extensive Environmental Impact Statement (EIS) for any major federal action significantly affecting the quality of the human environment. Currently, the issuance of a Section 404 permit by the Corps constitutes "federal action" under NEPA. Since no law that parallels NEPA exists at the state level, Section 404 permits issued by the state would no longer be subject to the rigorous review provided by an EIS.

Moreover, this delegation would add additional regulatory burden to FDEP, which is already under-resourced for its current responsibilities. For example, FDEP is woefully behind schedule on Total Maximum Daily Load development and is regularly behind in enforcement actions related to the National Pollutant Discharge Elimination System permit program. Additional responsibilities will divert resources away from these critical pre-existing duties. It is important to note that the Environmental Protection Agency (EPA) would not provide any federal funding to Florida for the administration of the 404 permitting program. Due to the value of these resources to our state, the large scope of this permitting program, and FDEP's already limited resources, FDEP's assumption of this responsibility would not guarantee the level of protection that our water requires.

There has been substantial public opposition to the state's proposed assumption of Section 404 authority. Despite this opposition, FDEP has continued to move forward, limiting the opportunity for public involvement in the rulemaking process and has failed to be transparent in rule development. Many questions from the public remain unanswered, including a clarification as to precisely which waters would remain under federal jurisdiction. Furthermore, given the current uncertainty regarding the very definition "Waters of the United States" under the Clean Water Rule, it is clear that FDEP's rule making on this matter is premature.

The Clean Water Act was developed, in part, because state governments were failing to manage waters in a manner that was protective of public and environmental health. Power to implement the Section 404 permit program was thus assumed by federal agencies. FDEP's attempt to take this authority undermines this purpose and puts Florida's water resources at stake.