

*April 18, 2018 Comment Letter to U.S. Army Corps of Engineers from Florida Wildlife Federation,
Conservancy of Southwest Florida, Miami Waterkeeper, St. Johns Riverkeeper
re: Florida Navigable Waters Determination*

EXHIBIT 1



Colonel Jason A. Kirk, District Commander
Jacksonville District Corps of Engineers
Regulatory Division
Att'n: Determination of Navigable Waters
P.O. Box 4970
Jacksonville, Florida 32232-0019

April 18, 2018

Via Email Jason.a.kirk@usace.army.mil, Navigability_Determination@usace.army.mil

Dear Colonel Kirk:

On behalf of our respective organizations, we are writing to request that the U.S. Army Corps of Engineers adopt the broadest interpretation of navigable waters under the Clean Water Act (CWA). Florida's waterways are uniquely connected and thus should be comprehensively and collectively protected under the Clean Water Act. We oppose any attempt to undermine these protections through unnecessary reclassification of waterways and we sincerely urge the Corps to maintain permitting authority over these important resources.

CWA Section 404 requires permits for the discharge of dredge and fill material into Waters of the United States, including wetlands. Florida has particularly fragile and critical areas that are regulated by Section 404 dredge and fill permits, and which require the highest level of review and scrutiny. We believe that the federal government is best able to conduct this review given their historic jurisdiction and agency expertise in this area. The federal authority to govern our waters has its origins in the Commerce Clause of the Constitution due to the central role our waterways and seas 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, we strongly believe that CWA authority should remain with the federal government and 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 jurisdiction.

Due to the value of these resources to our state, we urge the Corps to apply a broad interpretation to navigable waters in order to maintain federal control of these waterways. We request the Corps fully assess Florida's water bodies to ensure the Florida Navigable Waters List is complete and completely accurate. In addition, we urge the Corps to provide adequate public involvement and transparency during the process to update Florida's Navigable Waters.

In addition, we fully support comments submitted by Earthjustice regarding the navigability of waters in the State of Florida within the meaning of Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403, for purposes of determining the Corps' jurisdiction should the U.S. Environmental Protection Agency (EPA) grant Florida's anticipated request to administer its own permitting program under Section 404(a) of the Clean Water Act of 1972 (CWA), 33 U.S.C. § 1344, in waters of the United States.

Each signatory is an independent organization and member of Waterkeeper Alliance, a global movement of on-the-water advocates who patrol and protect over 100,000 miles of rivers, streams and coastlines in North and South America, Europe, Australia, Asia and Africa. More than 300 Waterkeeper Organizations worldwide combine firsthand knowledge of their waterways with an unwavering commitment to the rights of their communities and to the rule of law.

Sincerely,
Rachel Silverstein
Miami Waterkeeper

Lisa Rinaman
St. Johns Riverkeeper

Georgia Ackerman
Apalachicola Riverkeeper

Andrew Hayslip
Tampa Bay Waterkeeper

Marty Baum
Indian Riverkeeper

Andy Mele & Justin Bloom
Suncoast Waterkeeper

Jen Lomberg
Matanzas Riverkeeper

John Quarterman
Suwannee Riverkeeper

Rick Frey
St. Marys Riverkeeper

Reinaldo Diaz
Lake Worth Waterkeeper

Harrison Langley
Collier County Waterkeeper

Laurie Murphy
Emerald Coastkeeper

John Cassani
Calusa Waterkeeper