

# Thumbs down for state plan

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Wetlands in North Florida, illegally drained over the years. Photo by Jim Tatum.

This is another attempt at Tallahassee to grab power and reduce accountability. A subjective look at the Department of Environmental Protection in Florida would have to conclude that the agency has failed and is failing to protect our water resources.

Why in heaven's name then would we want to allow them free and fast access to destroying our diminishing and crucial wetlands just to help some businessmen make money?

"Department chief Noah Valenstein says the state will follow sound science in issuing permits." Let's hope the state will

follow the will of the people instead.

This is the only link provided by [the Tampa Bay Times](#).

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*– A river is like a life: once taken,  
it cannot be brought back © Jim Tatum*

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Florida's bid to take control of wetlands development permits from the federal government draws hundreds of negative comments.

BY ZACHARY T. SAMPSON

Times Staff Writer November 30, 2020

Judging by the comments, Florida residents do not trust the state to oversee more of its own wetlands.

Hundreds of people responded when the U.S. Environmental Protection Agency asked for feedback on the state's bid to take control of permitting development in wetlands from the federal government. About nine of every 10 were against the move, according to a Tampa Bay Times review of 446 comments posted online earlier this month.

"Embarrassing as it may be, I ask you to help protect the future well-being of our state of Florida from our Florida government that often is more concerned with development than the current and future water and environmental needs of our citizens," wrote Arthur Ondich, of Hobe Sound, on the coast of Martin County.

The Florida Department of Environmental Protection wants to take on more oversight of dredging and filling around wetlands regulated by the U.S. Army Corps of Engineers. Building in Florida, whether a road, house or apartment complex, often requires working in wetlands, which provide a home for animals and natural storage for floodwaters. Roughly one-fifth of the country's wetlands are in Florida.

Those opposing the plan fear that the department will be too lenient in handing out permits, leading to the loss of important ecosystems. Proponents, including developers, say the state already oversees similar permitting and works more quickly than the federal government, meaning projects could be cheaper and require less time. The Department of Environmental Protection estimated that 85 percent of the load it would add overlaps with existing duties.

"Relaxing protections is specifically forbidden when a state assumes the 404 program," wrote department spokeswoman Weesam Khoury, using the technical name for the permitting effort. Referencing specific critiques, Khoury said Florida has a method for evaluating how projects could affect endangered species and is potentially even more broad than the Army Corps in deciding which wetlands should be subject to permitting scrutiny. She said the state already implements some national programs, including regulating polluted stormwater discharges.

The Environmental Protection Agency last month held two virtual meetings to hear from commenters, many of whom were against the move, and it accepted written remarks through Nov. 2. The Times review represents only a portion of thousands of comments on the application, according to federal records, because not all are publicly viewable.

Most responses came from a cadre of lobbyists, environmentalists

and wonks who acknowledge that federal permitting is a highly esoteric topic. Several asked for more time to research and raise awareness.

“Why have I only recently become aware?” wrote commenter Lew Kontnik. “Because I, like most other Americans, have been preoccupied by protecting my family and others from the impacts of the COVID-19 pandemic.”

Environmentalists say their opposition is rooted in Florida’s history of liberally paving over wetlands to absorb a growing population. In the early 1800s, the peninsula that would later become the state contained more than 20 million acres of wetlands, research from the U.S. Fish and Wildlife Service has shown. By 1996, that area had dwindled to an estimated 11.4 million acres.

“It puts these properties basically up for grabs for development in a state that is already wildly overdeveloped,” said Kelly Cox, general counsel for Miami Waterkeeper, in an interview. Her group helped organize a coalition of environmentalists opposing the state’s application.

The Army Corps approves a lot of development but adheres to a deliberate process, critics say. By contrast, they say, the state operates under deadlines and is more susceptible to influence from heavyweight industries such as agriculture and construction, which benefit from expanding into wetlands. The federal permitting process can also trigger thorough environmental reviews, according to advocates, and allow for public comment that may push developers to pursue a less damaging path. The state, they say, has no equivalent process.

Numerous commenters – some using a template letter – questioned how the Department of Environmental Protection could, as it has suggested, take on more work without hiring more employees at a

time when state revenues have plunged because of the pandemic. Transparency Florida, a budget tracking website, shows the Department of Environmental Protection recently had 294 vacancies and a staff more than 600 positions smaller than a decade ago.

“Under (former) Gov. (Rick) Scott, the DEP workforce was vastly downsized and this resulted in a loss, not only of staff, but of long-time staff with institutional and environmental expertise,” wrote Peggy Morgan, who identified herself as a former scientist for the state agency. “The quality of the permitting will suffer with the added workload, and will result in diminished environmental protection in the name of fast-tracking development.”

Department of Environmental Protection secretary Noah Valenstein, in a letter to a federal environmental official, wrote that the state would have about 200 people who could work on the program at least part of the time, and the agency’s “intimate knowledge of state aquatic resources” would guarantee sound science.

“Simply put, the assertions that Florida does not have adequate resources to operate the 404 program are unfounded and wrong,” Valenstein wrote.

In nearly all of the country, the Army Corps handles the relevant wetlands permitting, with additional oversight by the Environmental Protection Agency. Florida would follow only Michigan and New Jersey in taking over much of the Corps’ work.

When the Department of Environmental Protection considered assuming more permitting in the past, urged on by builders, the idea did not get far. In 2005, the agency said it would need additional funding to handle additional work.

The idea got another airing in 2018 under then-Gov. Scott, when the Florida Legislature allowed the state to look again at assuming more permitting responsibilities. That effort has continued under current Gov. Ron DeSantis, with backing from Scott, now a U.S. senator.

Scott joined his colleague Sen. Marco Rubio in writing a letter to “strongly urge” the Environmental Protection Agency to approve Florida’s proposal, saying it would “reduce duplication of effort and combined expenditures by state and federal authorities.”

The most frequent boosters of the plan in public comments were representatives from national, state and regional home builders associations, who in form letters argued that permitting delays make housing more expensive for Floridians.

“Florida Environmental Resource Permits are often received months and sometimes years prior to their federal counterparts. The two permits are often indistinguishable, aside from the permit issuance date,” wrote Rusty Payton, CEO of the Florida Home Builders Association. He cited hurdles involving court challenges and staffing turnover at the federal level.

In response to followup questions from the Times, a spokeswoman provided a list of answers to frequently asked questions in which Payton wrote: “The law is the law, no matter who applies it.”

The Clean Water Act would still govern wetlands regulations, and the Army Corps would continue to oversee some major waterways.

State officials have said their application is meant to speed up not only private development, but also permitting for environmental restoration projects, including efforts to add storage for high waters around Lake Okeechobee, where polluted

discharges fuel widespread algal blooms.

Some commenters did not oppose the pitch outright but found the application lacking. A representative of the Seminole Tribe, Michelle Diffenderfer, questioned whether officials would create a process for working with tribal leaders when wetland projects elsewhere displace endangered species, potentially putting more conservation pressure on tribal lands.

The Environmental Protection Agency expects to make a decision on Florida's bid by Dec. 17, a department spokeswoman said – about one month before a change in presidential administrations...

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