

Mitchell, Williams, Selig, Gates &amp; Woodyard, P.L.L.C.

# National Environmental Policy Act/Clean Water Act: Federal Court Addresses Challenges to Interstate Interchange Construction

**Walter Wright, Jr.**

wwright@mwlaw.com

(501) 688.8839

02/04/2026

**Co-Author Trish Boyd**

The United States District Court for the Middle District of Florida ("District Court") addressed in a January 22nd Order issues arising out of the National Environmental Policy Act ("NEPA") and Clean Water Act ("CWA"). *See The Sweetwater Coalition of Volusia County v. Jared Perdue*, 2026 WL 177675.

The District Court considered a Motion for Preliminary Injunction ("Motion") regarding the construction of a federally funded interstate interchange in New Smyrna Beach, Florida ("Project").

The Sweetwater Coalition of Volusia County Inc. ("Plaintiff") filed the Motion against the Secretary of the Florida Department of Transportation ("FDOT") and the District Engineer of the Army Corps of Engineers ("ACOE"). The organization alleged that the FDOT and ACOE failed to comply with requirements of the CWA and NEPA for the Project.

The Project consists of constructing in New Smyrna Beach, Florida new entry and exit ramps to reduce congestion at adjacent interchanges and improve regional mobility.

The Motion for Preliminary Injunction requested that the construction be halted.

The Plaintiff first alleged that FDOT failed to complete a NEPA environmental impact statement ("EIS"), required by NEPA. NEPA requires agencies to prepare an EIS if there is a major federal action that will significantly affect the human environment. An EIS need not be prepared if a particular federal action falls within the scope of a categorical exclusion.

A project is categorically exempt under NEPA in this context if it does not:

1. significantly impact the growth or land use of the area,
2. require the relocation of a large population,
3. significantly impact resources in the area,
4. significantly impact air, noise, or water quality, and
5. significantly impact travel patterns.

FDOT concluded that the Project met all five elements and qualified for the NEPA categorical exclusion. An EIS was therefore not prepared.

The Plaintiff alleged that this finding was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

The Plaintiff further alleged that ACOE failed to comply with the CWA when issuing a Section 404 permit for the Project. The CWA requires a Section 404 permit be obtained for the addition of dredged or fill material into “waters of the United States”.

The Plaintiff alleged that ACOE did not consider off-site alternatives as required by the CWA regulations. The decision to issue a permit to the Project was therefore argued to be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

The District Court denied the Motion for Preliminary Injunction.

Preliminary Injunctions are only issued when a plaintiff demonstrates “a substantial likelihood of success on the merits of the underlying case.” The District Court held that the Plaintiff did not demonstrate a substantial likelihood of success on the NEPA or CWA claims against either agency.

The District Court stated that NEPA categorical exclusion determinations are given wide deference to the agency. FDOT was held to have appropriately considered the categorical exclusion factors. As a result, the District court concluded there was not a substantial likelihood that the Plaintiff would succeed in meeting the burden of proof that applying the NEPA categorical exclusion was an abuse of discretion.

The District Court noted that the goal of the Project was to reduce congestion on nearby interstate interchanges. The no “off-site alternatives” was deemed reasonable in view of the Project’s goals. As a result, the District Court held that the Plaintiff did not meet the burden of proof to demonstrate a substantial likelihood of success that the ACOE abused its discretion by issuing the permit.

Because the Plaintiff’s claims did not demonstrate a substantial likelihood of success, the District Court denied the Motion for Preliminary Injunction.

A copy of the Order can be found [here](#).