

FDOT District-3 / NFWWMD Mitigation Planning and Coordination

Meeting Minutes¹

June 11, 2024 (TUE)
11 AM EDT / 10 AM CDT
NFWWMD Headquarters
81 Water Management Drive, Havana, FL

Attendees	
FDOT District-3	
John Whittington Environmental Administrator	John.Whittington@dot.state.fl.us
Joy Swanson Pleas Environmental Manager	Joy.SwansonPleas@dot.state.fl.us
Joseph Mixon Environmental Permits Coordinator	Joseph.Mixon@dot.state.fl.us
Hannah Pettis Environmental Permits	Hannah.Pettis@dot.state.fl.us
Meagan Rogers Environmental Permits	Meagan.Rogers@dot.state.fl.us
Northwest Florida Water Management District	
Danny Layfield Director, Asset Management Director	Danny.Layfield@nfwwater.com
Carol Bert Bureau Chief, Asset Management Administration	Carol.Bert@nfwwater.com
Robert Lide Senior Environmental Scientist	Robert.Lide@nfwwater.com
Philip Garrett Senior Environmental Scientist	Philip.Garrett@nfwwater.com
Robert Steele Senior Asset Management Administrator	Robert.Steele@nfwwater.com

¹ Meeting minutes compiled by NFWWMD staff with input from FDOT staff.

An FDOT District-3 / NFWWMD mitigation staff meeting was held Tuesday, June 11, 2024, at NFWWMD Headquarters (81 Water Management Drive, Havana, FL) with the purpose of facilitating effective planning, coordination, and implementation of wetland mitigation via section 373.4137, Florida Statutes. Joy Swanson Pleas (FDOT) and Robert Lide (NFWWMD) acted as meeting facilitators.

Introductions

Because of recent changes in mitigation staffing at both FDOT District-3 and NFWWMD, coupled with a reorganization of the NFWWMD mitigation program, the meeting began with introductions. Erica Collins Brookman, for many years the Environmental Permits Coordinator for FDOT District-3 and a tremendous asset to the program, separated from FDOT in February 2024 to accept another job; her position has recently been filled by Joseph Mixon. David Clayton, former Senior Environmental Scientist with the NFWWMD and a driving force over the past 20 years in developing restoration strategies for NFWWMD mitigation sites, retired from the NFWWMD in 2023 and is now working as a private-sector environmental consultant; his position was filled in late 2023 by Philip Garrett.

In October 2023, the NFWWMD mitigation program was moved from the Resource Management Division (Paul Thorpe, Director) to the Asset Management Division (Danny Layfield, Director). Asset Management oversees all aspects of land management and acquisition, including those associated with mitigation. Two NFWWMD positions (Robert Lide, Senior Environmental Scientist; Philip Garrett, Senior Environmental Scientist) are dedicated full-time to the mitigation program. Other NFWWMD staff are called upon as necessary. It is anticipated that moving the NFWWMD mitigation program from Resource Management to Asset Management will increase efficiency and coordination in implementing land management activities associated with mitigation, such as prescribed fire, herbicide applications to manage exotic vegetation and nuisance shrubs, mechanical brush reduction, and the like.

Section 373.4137, Florida Statutes

It was emphasized that all aspects of the NFWWMD mitigation program are governed by section 373.4137, Florida Statutes. Statute requirements highlighted during the discussion included:

- FDOT must use **mitigation banks** when feasible. Furthermore, the NFWWMD will provide mitigation options to FDOT only when use of a private mitigation bank is deemed not feasible.
- FDOT must submit an Environmental Impact Inventory (or **Environmental Mitigation Escrow Report** as a proxy) to the NFWWMD for projects which may need mitigation through the NFWWMD program. As all NFWWMD planning for FDOT impacts is based on the Environmental Mitigation Escrow Report, the importance of maintaining accurate, up-to-date information and timely submittals to the NFWWMD was stressed.

To meet this statutory requirement, it was decided the best approach is for FDOT District-3 to submit an updated Environmental Mitigation Escrow Report to NFWFMD each time a new project is added (not quarterly; not annually).

- The NFWFMD is statutorily required to develop, prior to March 1 of each year, an annual **Regional Mitigation Plan Update** based on information provided from FDOT for impacts which may need mitigation through the NFWFMD program (impacts anticipated to be mitigated at private mitigation banks are excluded from this plan). The process of developing this annual Update and obtaining necessary approvals from the NFWFMD Governing Board designee (i.e., the NFWFMD Executive Director) and FDEP Submerged Lands and Environmental Resources Coordination was described. It was underscored that NFWFMD cannot implement mitigation for an FDOT impact prior to approval from FDEP Submerged Lands and Environmental Resources Coordination (this approval is separate from any permits that may be issued by FDEP permittees and ideally is obtained early in the planning process prior to permits being issued).
- Per statutes, the Regional Mitigation Plan Update must be developed in consultation with other agencies. NFWFMD meets this requirement by holding occasional **mitigation Review Team meetings** with representatives from USACE, FDOT, FDEP, FWC, NMFS, USFWS, EPA, and other interested parties. These meetings are generally held annually, although have been held multiple times a year when warranted. All minutes from these meetings, dating to 2008, are posted and archived on the NFWFMD website. NFWFMD and FDOT staff will coordinate to hold an upcoming mitigation Review Team meeting, tentatively in Fall 2024. These meetings have typically been held at the FDOT Midway Operations Center; field visits to one or more mitigation sites may be scheduled as compatible with Review Team member schedules.
- Mitigation funding (currently \$135,780 per acre of direct wetland impact and adjusted each July 1 based on the federal Consumer Price Index), as enabled by section 373.4137, FS, was discussed. FDOT District-3 will provide NFWFMD with an updated “Calculation of Cost Per Acre” table when available (this table is used to determine dollar amounts when NFWFMD invoices FDOT for mitigation projects; provision of an annually updated table is necessary to ensure correct invoicing).

FDOT District-3 / NFWFMD Mitigation Agreement (Expires June 30, 2029)

The current enabling agreement (NFWFMD Contract 19-040) between FDOT District-3 and NFWFMD, a 10-year agreement, expires in five years (June 30, 2029). To avoid potential delays in providing mitigation services, it is highly recommended that FDOT / NFWFMD mitigation staff begin the agreement renewal process in early 2029.

Private Mitigation Banks

Section 373.4137, Florida Statutes, requires FDOT to make use of mitigation banks when possible. Although the NFWFMD owns and manages one mitigation bank (Sand Hill Lakes Mitigation Bank) in Washington County, the NFWFMD does not compete with private mitigation banks.² Approximately 85% of the Sand Hill Lakes Mitigation Bank service area is now overlapped by multiple private mitigation bank service areas, and FDOT is expected to make use of one of those private banks when possible.³ Nokuse Plantation Mitigation Bank has the largest service area overlap with the Sand Hill Lakes Mitigation Bank. If an impact occurs within the Nokuse service area and Palustrine Forested credits are required by permit (Nokuse has a current balance of 50+ Palustrine Forested credits), FDOT is expected to purchase credits independent of the NFWFMD from the Nokuse Plantation Mitigation Bank (or another private bank as applicable). However, since Nokuse does not have Palustrine Emergent credits, whereas, the Sand Hill Lakes Mitigation Bank does have Palustrine Emergent credits (7.84 Palustrine Emergent credits currently available), the NFWFMD can make Palustrine Emergent credits available to FDOT when required by permits. Again, it is the policy of NFWFMD to provide mitigation from the Sand Hill Lakes Mitigation Bank (or any other NFWFMD mitigation site) only when FDOT is unable to fulfill permit requirements at a private bank.

NFWFMD Mitigation Program and Process

The NFWFMD accomplishes mitigation for FDOT impacts via three mechanisms:

- Sand Hill Lakes Mitigation Bank (debiting of credits).
- NFWFMD In-Lieu Fee Program (debiting of credits).
- Permittee-Responsible Projects (stand-alone projects; no banking or debiting of credits).

Since 1997, the NFWFMD has implemented mitigation at 32 sites to offset impacts associated with 80+ FDOT District-3 transportation projects. Some 10,000 acres of wetlands and upland buffers have been preserved, enhanced, and/or restored in support of FDOT mitigation needs. Per federal and state permits, all mitigation sites must be **maintained in perpetuity** in a condition that appropriately offsets authorized impacts, even after monitoring requirements have ended and the site is placed into long-term management. All funds collected from FDOT for mitigation are placed into a dedicated mitigation account that can only be used for FDOT mitigation. Funds in excess of that used to initially implement mitigation, plus earned interest on the dedicated account, are retained to guarantee maintenance of all mitigation sites in perpetuity.

² Approximately 1/3 of the northwest Florida is currently covered by private mitigation bank service areas.

³ The Sand Hill Lakes Mitigation Bank service area is partially overlapped by service areas associated with Nokuse Plantation Mitigation Bank, Devils Swamp Mitigation Bank, Breakfast Point Mitigation Bank, Bear Creek Mitigation Bank, Sweetwater Mitigation Bank, and Horseshoe Creek Mitigation Bank.

The NFWFMD mitigation program process was discussed in detail including:

- The importance of continuing NFWFMD / FDOT coordination and frequent communication.
- The importance of up-to-date FDOT Environmental Mitigation Escrow Report spreadsheets (as a proxy for the Environmental Impact Inventory).
- The importance of occasional (generally annual) mitigation Review Team meetings to meet the statutory requirement to consult with other agencies when developing mitigation plans.
- The intricacies of developing an annual Regional Mitigation Plan Update (approval process, consultation with other agencies, statutory deadlines, etc.).
- Issuance of ERP and/or 404 permits to FDOT.
- Need for a “Credit Reservation, Purchase Agreement and Certificate” (signed by the NFWFMD Executive Director and the FDOT District-3 Environmental Permits Coordinator; specifies number and type of credits, mitigation site, cost, and associated permits) when mitigation is to consist of debiting of credits from either the Sand Hill Lakes Mitigation Bank or the In-Lieu Fee Program (this “Credit Reservation, Purchase Agreement and Certificate” is not used for Permittee-Responsible projects).
- Invoicing of mitigation funds (it is the policy of the NFWFMD to invoice FDOT only after all ERP and/or 404 permits have been issued, although exceptions will be considered on a case-by-case basis; invoice amount is calculated from the acreage of direct wetland impact specified in permits times the current per-acre-cost allowed by statute).
- Implementation of mitigation (after mitigation funds are received in full).

During permitting phases, when FDOT proposes use of the Sand Hill Lakes Mitigation Bank or an NFWFMD In-Lieu Fee project as offsetting mitigation to state or federal permittees (and after said impact has been discussed by the mitigation Review Team and included in the approved annual Regional Mitigation Update), the NFWFMD will provide FDOT, if required by permittees, a letter stating sufficient credit is available and reserved for FDOT to offset the impact (this letter is not the “Credit Reservation, Purchase Agreement and Certificate”—the “Credit Reservation, Purchase Agreement and Certificate” is issued after all ERP and/or 404 permits have been issued and the exact type and number of credits and cost is known). In the case of Permittee-Responsible mitigation, NFWFMD staff will provide FDOT with detailed project plans for submittal to permittees (NFWFMD staff, may, as appropriate, work directly with state or federal permittees in generating appropriately detailed mitigation plans).

2024 Regional Mitigation Plan Update, Supplemental No. 1 (Not Needed)

It was decided, based on permitting timelines, that a 2024 Regional Mitigation Plan Update, Supplemental No. 1 would not be necessary for the Hanna Mill Pond Road impact (Ochlockonee River watershed). The Hanna Mill Pond Road impact is anticipated to be included in the 2025 Regional Mitigation Plan Update with suggested mitigation to consist of debiting of credits from the Shuler In-Lieu Fee site (a unit of the NFWFMD In-Lieu Fee Program). Ideally, any FDOT

impact which could conceivably need mitigation via the NFWWMD program should, early-on, be added to the Environmental Mitigation Escrow Report. Given the lengthy approval process, inclusion of an FDOT project in the annual Regional Mitigation Plan Update that ultimately does not need mitigation through the NFWWMD is preferable to situations requiring mid-year supplementals.

Discussion of Specific NFWWMD Mitigation Projects and Wrap Up

All 32 mitigation projects implemented since 1997 for FDOT impacts were very briefly touched upon. Fourteen of these projects have ongoing restoration, monitoring, or reporting requirements. Eighteen are in long-term management and have no monitoring or reporting requirements. All must be maintained in perpetuity.

Efforts to remove the Ward Creek West project (West Bay, St. Andrew Bay watershed; Bay County) from the In-Lieu Fee Program were briefly discussed. Because of high-density residential encroachment, implementation of fire and other intensive management activities at Ward Creek West required by the In-Lieu Fee Program has become highly problematic and potentially cost-prohibitive. The Ward Creek West service area is now covered completely by multiple, private mitigation banks with similar credit types; any future use of Ward Creek West for FDOT mitigation and any future infusion of FDOT mitigation dollars to restore and manage this site is exceedingly unlikely. A plan to transfer existing mitigation obligation from Ward Creek West to the Sand Hill Lakes Mitigation Bank and remove the site from the In-Lieu Fee Program is under review by the USACE.

There was a short discussion of the 2023 USACE-Jacksonville guidance (CESAJ-RD 3/30/2023) on Proximity Factors to allow out-of-service-area use of mitigation banks and how that might, long-term, affect FDOT District-3 mitigation options. Two past Permittee-Responsible mitigation projects conducted by FDOT independent of the NFWWMD program were also briefly discussed (Quincy Bypass from SR 12 to SR 267, FPID 218946-6; US 331 Choctawhatchee Bay Bridge, FPID 220664-2).

AGENDA, POWERPOINT PRESENTATION, AND SECTION 373.4137, FS, ATTACHED

NFWFMD / FDOT District-3 Mitigation Planning and Coordination

June 11, 2024 (TUE)
11 AM EDT / 10 AM CDT
NFWFMD Headquarters
81 Water Management Drive, Midway, FL

Purpose of this meeting—to facilitate effective planning, coordination, and implementation of wetland mitigation when FDOT District-3 opts to mitigate via the NFWFMD, section 373.4137, FS, mitigation program.

- Introductions
- Section 373.4137, Florida Statutes
- FDOT/NFWFMD Mitigation Agreement (Expires June 30, 2029)
- Private Mitigation Banks
- NFWFMD Mitigation Program
 - Sand Hill Lakes Mitigation Bank
 - In-Lieu Fee Program
 - Permittee-Responsible Projects
- Mitigation Process
 - NFWFMD/FDOT Coordination
 - FDOT Escrow/Inventory
 - Interagency Mitigation Review Team Meetings
 - Annual Regional Mitigation Plan Update
 - Issuance of Permits
 - Credit Reservation, Purchase Agreement and Certificate (when mitigation consists of credits from the In-Lieu Fee Program or the Sand Hill Lakes Mitigation Bank)
 - Invoicing of Mitigation Funds
 - Implementation of Mitigation
- 2024 Regional Mitigation Plan Update, Supplemental No. 1 (Necessary?)
- Detailed Discussion of Specific NFWFMD Mitigation Projects (Time Permitting)
- Open Discussion and Wrap Up



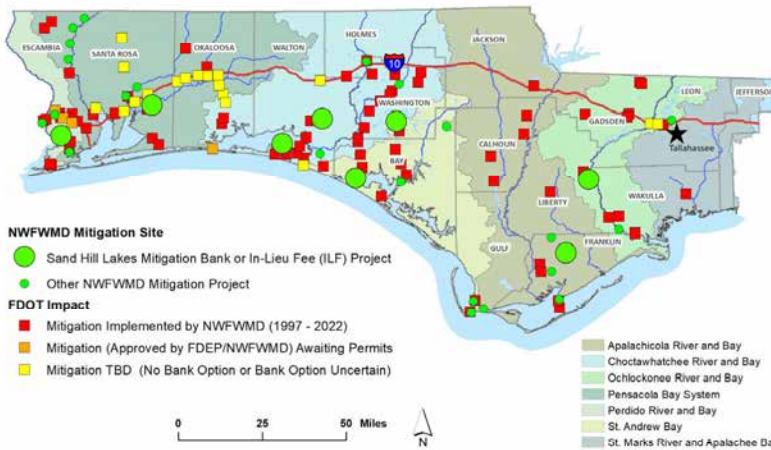
NFWWMD / FDOT District-3 Mitigation Planning and Coordination

11 June 2024 (TUE)
NFWWMD Headquarters
Midway, Florida

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FDOT Impacts and NFWWMD Mitigation: 1997 - 2022



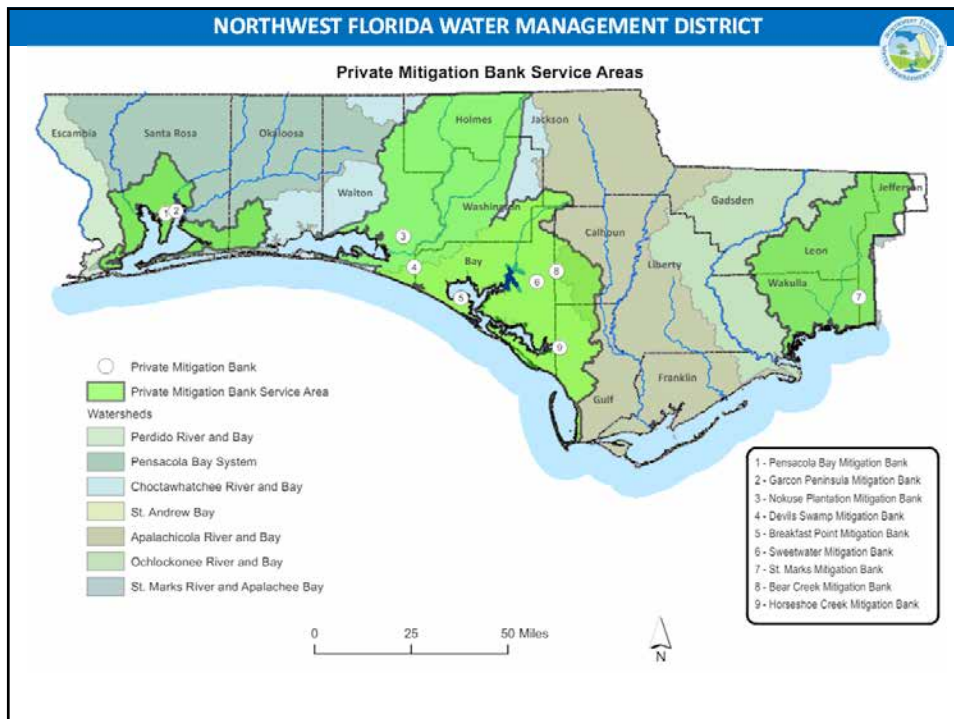
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Section 373.4137, Florida Statutes

- FDOT must use mitigation banks when feasible.
- FDOT Environmental Impact Inventory.
- NFWWMD Annual Regional Mitigation Plan Update.
- Consultation with appropriate state and federal entities (i.e., mitigation Review Team meetings).
- Funding (currently \$135,780 per acre of impact).

3



4



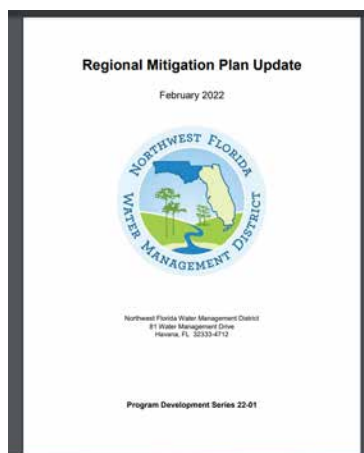
FDOT Environmental Impact Inventory

- The “FDOT Environmental Impact Inventory” is a list of road projects added to FDOT’s adopted work program with information on wetland impacts. In practice, FDOT District-3 uses an “Environmental Mitigation Escrow Report” to meet this requirement.
- Per Statute, must be submitted by July 1st of each year to the NFWFMD. In practice, FDOT District-3 submits the Escrow Report multiple times a year as new projects are added.
- All Inventory/Escrow Reports are posted at www.nfwwater.com.

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Regional Mitigation Plan Update



- Per section 373.4137, FS, WMDs must update annually
- Process
 - Florida Administrative Register (FAR)
 - NFWFMD approval
 - FDEP approval
 - www.nfwwater.com

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Agency Mitigation Review Team Meetings

- Generally held annually
- Participating agencies
 - NFWWMD, FDOT District-3, USACE, FDEP, FWC, NMFS, USFWS, EPA
- Meeting Minutes posted online



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Search

Review Team Meeting Minutes

Minutes of the mitigation Review Team (RT) meetings

A mitigation Review Team (RT), composed of representatives from the US Army Corps of Engineers (USACE), US Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), Florida Fish and Wildlife Conservation Commission (FWC), Florida Department of Transportation (FDOT), and Northwest Florida Water Management District (NFWWMD), meets periodically to discuss FDOT projects, mitigation options, and the status of ongoing NFWWMD mitigation projects.

- [Meeting Minutes - February, 2023](#)
- [Meeting Minutes \(Virtual Meeting\) - February, 2022](#)
- [Meeting Minutes \(Virtual Meeting\) - February, 2021](#)
- [Meeting Minutes \(Virtual Meeting\) - October, 2020](#)
- [Meeting Minutes - February, 2020](#)
- [Meeting Minutes - February, 2019](#)
- [Meeting Minutes - January, 2018](#)
- [Meeting Minutes - January, 2017](#)
- [Meeting Minutes - August, 2016](#)
- [Meeting Minutes - January, 2016](#)
- [Meeting Minutes - January, 2015](#)
- [Meeting Minutes - February, 2014](#)
- [Meeting Minutes - February, 2013](#)
- [Meeting Minutes - April, 2012](#)
- [Meeting Minutes - December, 2011](#)

- Watersheds
- NFWWMD Mitigation Sites
- FDOT Impacts
- Mitigation Approvals
- Review Team Meeting Minutes

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Mitigation Funding

- \$135,780 per Acre of Direct Wetland Impact (FDOT FY24)
- \$143,462 per Acre (FDOT FY24)

**ENVIRONMENTAL MITIGATION
BY WATER MANAGEMENT DISTRICTS
CALCULATION OF COST PER ACRE**

THIS ADJUSTMENT IS FOR THE PERIOD BEGINNING JULY 1, 2022
Numbers in bold have been held constant from last update

CPI Available For Use		State Fiscal Year		
FY Ending Sept. 30	Value	FY Ending June 30	Factor	Adjusted Cost per Ac
		1996/97	n.a	\$75,000
1995/96	155,725	1997/98	n.a	\$75,000
1996/97	159,883	1998/99	1.027	\$77,003
1997/98	162,500	1999/00	1.044	\$78,263
1998/99	165,617	2000/01	1.064	\$79,764
1999/00	170,842	2001/02	1.097	\$82,291
2000/01	176,358	2002/03	1.132	\$84,937
2001/02	178,875	2003/04	1.149	\$86,149
2002/03	183,100	2004/05	1.176	\$88,104
2003/04	187,325	2005/06	1.203	\$90,219
2004/05	193,475	2006/07	1.242	\$93,101
2005/06	200,617	2007/08	1.288	\$96,616
2006/07	205,314	2008/09	1.319	\$98,890
2007/08	214,434	2009/10	1.377	\$103,275
2008/09	213,777	2010/11	1.373	\$102,959
2009/10	217,395	2011/12	1.396	\$104,701
2010/11	223,117	2012/13	1.433	\$107,457
2011/12	227,565	2013/14	1.461	\$109,599
2012/13	231,400	2014/15	1.486	\$111,446
2013/14	234,950	2015/16	1.509	\$113,156
2014/15	236,650	2016/17	1.520	\$113,975
2015/16	239,650	2017/18	1.535	\$115,131
2016/17	244,075	2018/19	1.567	\$117,551
2017/18	250,075	2019/20	1.606	\$120,441
2018/19	253,256	2020/21	1.626	\$121,973
2019/20	257,256	2021/22	1.652	\$123,899
2020/21	263,150	2022/23	1.690	\$126,738
2021/22	281,925	2023/24	1.810	\$135,780
2022/23	297,875	2024/25	1.913	\$143,462



FDOT / NFWFMD Mitigation Agreement (Expires June 30, 2029)

AGREEMENT
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

THIS AGREEMENT is entered into this 28th day of October, 2019, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the Department) and the NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT (the NFWFMD).

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to furnish the NFWFMD with a list of its projects and an environmental impact inventory of habitat impacts and the anticipated mitigation to offset impacts, based on transportation projects in the next three years of the tentative work program, and may also include future projects; and

WHEREAS, the Department must include the information required by Section 373.4137, Florida Statutes, in its environmental impact inventory; and

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to identify funding for the mitigation option identified in its environmental impact inventory in the



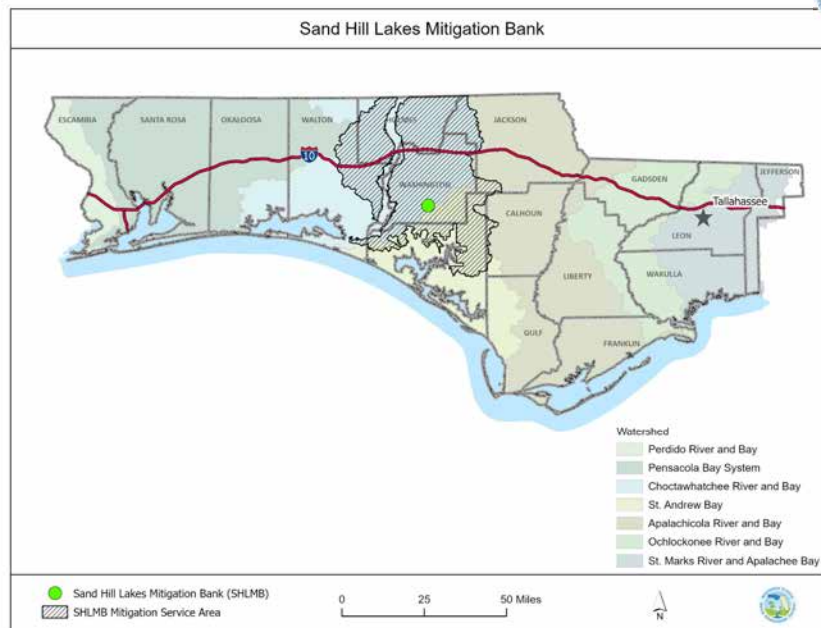
NFWWMD Mitigation Program Options

- Sand Hill Lakes Mitigation Bank (debiting of credits)
- NFWWMD In-Lieu Fee Program (debiting of credits)
- Permittee-Responsible Projects (stand alone projects; no banking of credits)

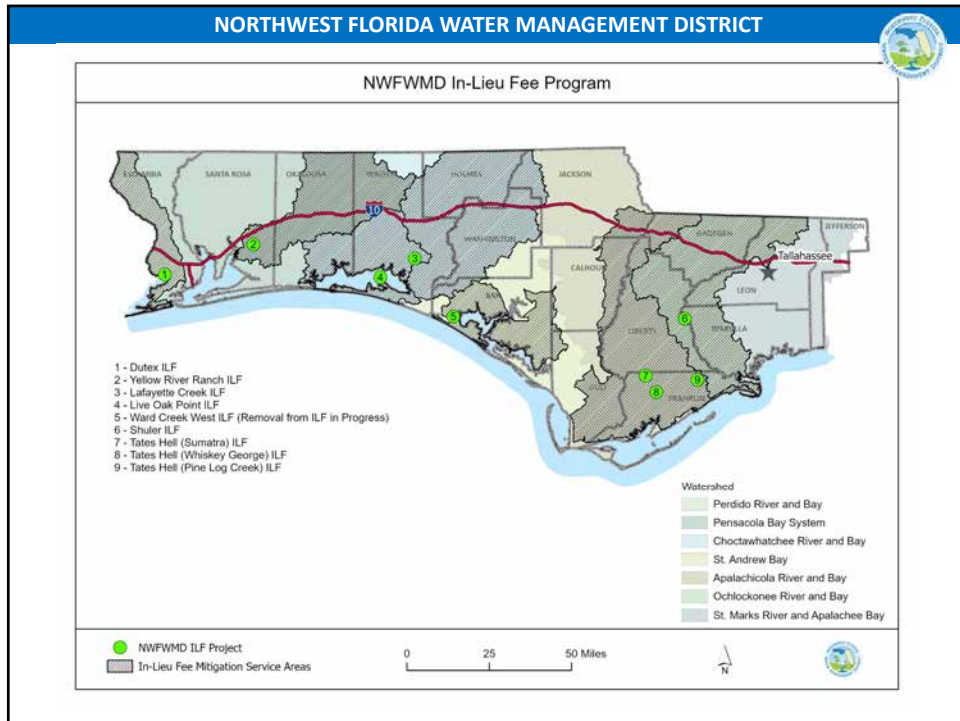
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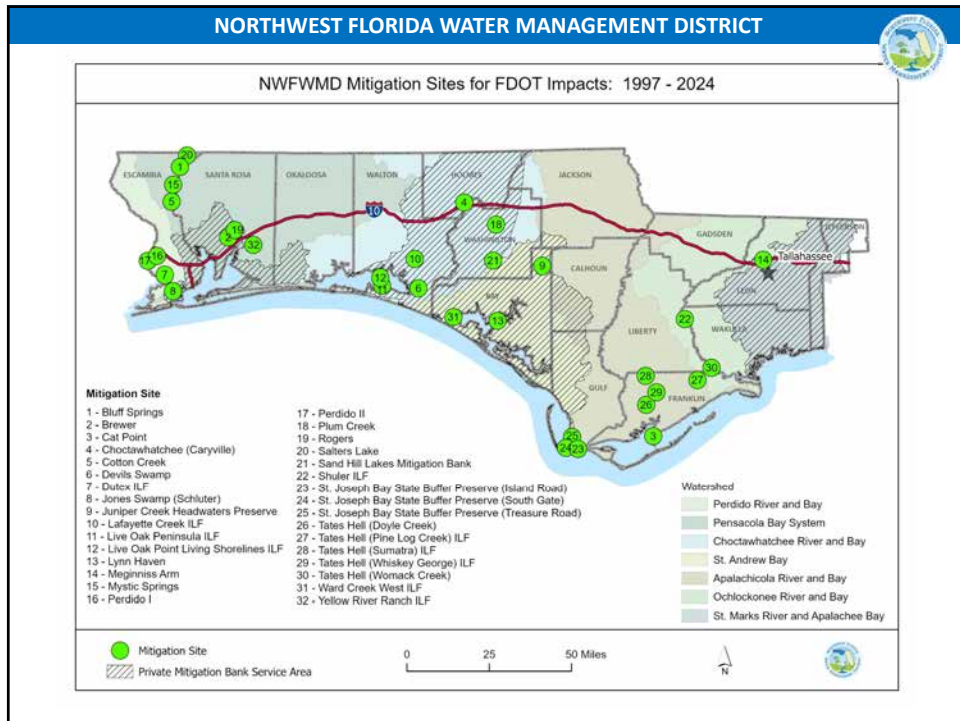
Sand Hill Lakes Mitigation Bank



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Summary of NFWWMD Mitigation for FDOT District-3 Impacts (Since 1997)

- FDOT Impacts
 - 80+ Road Projects (NFWWMD guarantees mitigation in perpetuity)
 - Approximately 550 Acres of Direct Wetland Impact (per USACE permits)
- NFWWMD Mitigation
 - 32 Projects Implemented
 - Approximately 10,000+ Acres of Mitigation (Including Acquisitions, Enhancement, Restoration, and Upland Buffer Enhancements)

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NFWWMD Mitigation (Since 1997)

- Wetland Preservation: 3,800+ Acres
 - Wetland Enhancement: 2,800+ Acres
 - Wetland Restoration: 200+ Acres
 - Upland Buffers: 3,400+ Acres
-
- ~10,000+ Acres

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FDOT and NFWMD Mitigation Coordination Process Overview

- FDOT Inventory (updates provided multiple times a year by FDOT)
- Agency mitigation Review Team meetings (organized by NFWMD; generally held annually)
- Annual Regional Mitigation Plan Update (statutory requirement)
 - Florida Administrative Register (draft plan advertised in FAR for public comment; generally advertised in January or February of each year)
 - NFWMD approval (Executive Director as Governing Board designee)
 - FDEP Submerged Lands and Environmental Resources Coordination approval (Tim Rach's approval)
- Issuance of ERP and 404 permits for an FDOT project
- Invoicing of mitigation funds for said FDOT project (after permits issued)
- Implementation of mitigation for said FDOT project
- www.nfwwater.com (all pertinent documents related to mitigation program are posted)

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Invoicing of Mitigation Funds

Emphasis: Funding is based on direct acreage of impact, not functional loss. For example, 1 Acre of impact, depending on functional assessment and permit conditions, may require less than 1 UMAM credit, or more than 1 UMAM credit (if secondary impacts or proximity factors are taken into account).

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Implementation (SHLMB or ILF Debit)

Credit debits occur after:

- Permits are issued requiring the debits
- A “Credit Purchase Agreement” is signed
- Funds are received in full

FDOT EPID 439371-1
CR 67 Yellow Creek Bridge
Liberty County

Northwest Florida Water Management District
In-Lieu Fee Wetland Mitigation Program

CREDIT RESERVATION, PURCHASE AGREEMENT AND CERTIFICATE

The Northwest Florida Water Management District (NWFWMMD), a Florida governmental agency and sponsor of the NWFWMMD In-Lieu Fee Mitigation Program, (hereinafter referred to as "Seller"), does hereby reserve and set aside for future assignment for the sole benefit of the Florida Department of Transportation (hereinafter referred to as "Buyer"), a total of 0.09 Federal State Palustrine Forested Wetland Mitigation (PMFM) credits from the Shuler In-Lieu Fee Mitigation Area credit ledger, listed to Seller's In-Lieu Fee Mitigation Program pursuant to United States Army Corps of Engineers Permit Number SA-2011-00287-TM and provisions contained in 33 CFR, Parts 325 and 332, as revised effective June 9, 2008 (Federal Mitigation Rule).

This reservation is for use of credit in connection with mitigating adverse wetland impacts which may arise as a result of construction or other projects undertaken or to be undertaken by the Buyer for FDOT Financial Project ID (FFID) 439371-1 for CR 67 Yellow Creek Bridge in Liberty County (State 406 Permit 0404637-002-SFM-33). Seller warrants that it will take no action inconsistent with the reservation and future assignment described herein. However, this agreement does not constitute a permit or permission to proceed with any proposed action. The Buyer is responsible for obtaining all necessary permits for a proposed action.

Upon receipt of the full purchase price, Seller is committed to transfer to Buyer 0.09 federal palustrine forested mitigation credits from the Shuler In-Lieu Fee Mitigation Area credit ledgers for use in offsetting wetland impacts. The Purchase Price for 0.09 federal state mitigation credits associated with FDOT Project 439371-1, in accordance with the NWFWMMD In-Lieu Fee Program In-Lieu Fee Instrument and section 17.4.1.7, Florida Statutes, is four hundred ninety-four dollars (\$494.00). Seller will assume full legal responsibility for success of purchased mitigation credits as required by permits noted above and will at the appropriate time request withdrawal of the specified credits from the federal Shuler In-Lieu Fee Program credit ledger.

BUYER	SELLER
Name: Florida Department of Transportation	Northwest Florida Water Management District
By:	
Name and Title: Erica Collins, Environmental Permits Coordinator	Lyle Seigler, Executive Director
Executed: 1-24-2022	1/18-2022



Implementation (Permittee-Responsible)

- Project plans provided to FDOT for submittal to permitters (conceptual plans previously reviewed by mitigation Review Team and approved by NFWFMD and FDEP)
- Permits issued to FDOT
- Funds received
- Mitigation implemented (no credits banked)



2024 RMP Supplemental Needed?

2024 Regional Mitigation Plan Update

Supplemental No. 1 – March 2024



Northwest Florida Water Management District
81 Water Management Drive
Havana, FL 32334-4712

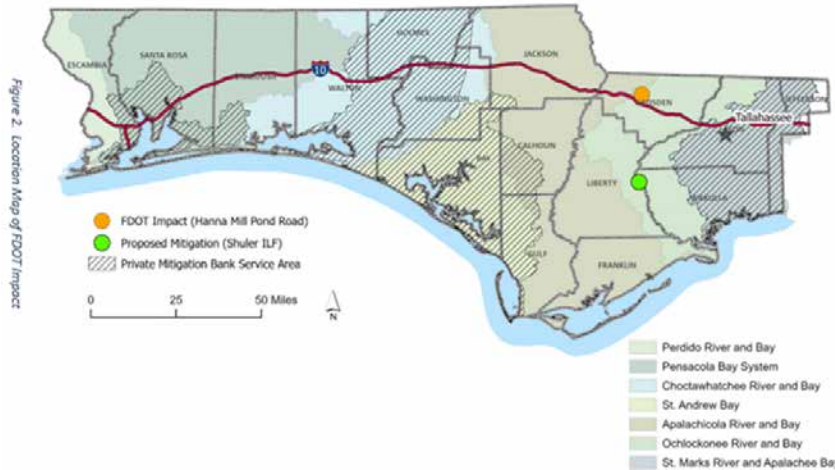
Program Development Series 24-01 (Supplemental No. 1)

- Hanna Mill Pond Road at Hanna Mill Pond.
- Needs to be added to the FDOT Escrow.
- Can planning wait until the 2025 Regional Mitigation Plan Update or is a 2024 Supplemental necessary?

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Northwest Florida Water Management District 2024 Regional Mitigation Plan Update - Supplemental No. 1 FDOT Project and Proposed Mitigation



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NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT



Table 1. Mitigation and Impact Project Overview

Mitigation and Impact Project Overview (2024 Supplemental No. 1) – March 2024						
Mitigation Name	Impact Project	Impact Location		Habitat / Community Type Impact	Total Impact Acres ¹	T/E Species Impact
		County	Drainage Basin			
Shuler in-Lieu Fee Mitigation Area	Hanna Mill Pond Road at Hanna Millpond, EBR xxx	Gadsden	000000008 River and Bay Watershed	Palustrine Forested	x	None

¹Estimated impact acreage provided by FDOT District-5; subject to verification by permitting authorities.

Table 2. Mitigation Plan Overview

Mitigation Plan Overview (2024 Supplemental No. 1) – March 2024						
Mitigation Name	Location		Habitat / Community Type	Mitigation Type	Number of Credits	Land Acquisition
	County	SWM Drainage Basin				
Shuler in-Lieu Fee Mitigation Area	Liberty	000000008 River and Bay	Palustrine Forested Wetlands	in-Lieu Fee Program	TBD	No

Table 3. Cost Estimates

Cost of Mitigation Plan (2023 Supplemental No. 1) – March 2024						
Mitigation Name	Planning / Design Cost	Construction Cost	Acquisition or Credit Purchase Cost	Management Cost	Total Cost ¹	Mitigation Cost per Acre of Impact
Shuler in-Lieu Fee Mitigation Area	50	50	TBD	50	5x.x80	\$135,780

¹For FDOT Fiscal Year 2024 (July 1, 2023 – June 30, 2024), in accordance with section 375.41.37, F5, mitigation, when conducted through a water management district, is funded at a rate of \$135,780 per acre of direct wetland impact.

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NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT



Perdido II

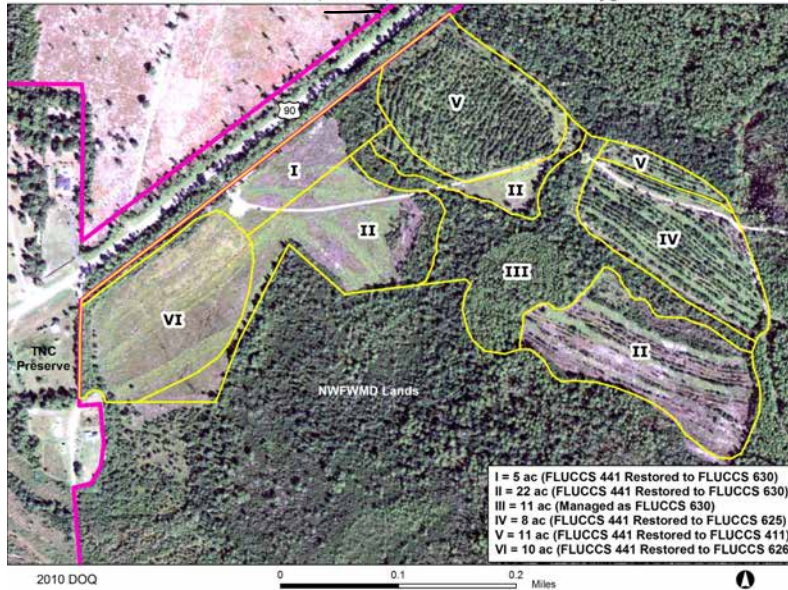


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Perdido II Target Communities

Perdido River WMA (Phase II) - Revised Restoration Polygons



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Perdido II

- Mitigation for US 90 Perdido River Bridge.
- 67-acre Site.
- Goal is to restore mesic pine flatwoods, hydric pine flatwoods, hydric pine savanna, and forested wetland mixed communities.
- Permits
 - USACE Permit SAJ-2007-5634 (IP-AWP) – issued 9/19/2008
 - FDEP Permit 17-0281915-001-DF – issued 5/7/2008

26



Perdido II

- Performance Standards

- EC1 – Desired species showing evidence of increasing coverage.
- EC2 – No more than 1% coverage of invasive exotic and 5% nuisance native and non invasive exotic species unless otherwise specified in a management plan.
- EC3 – Increase in appropriate species diversity.
- EC4 – Kind and total coverage of species appropriate for management goals and target natural community.
- EC5 – Kind and total coverage of herbaceous species appropriate for management goals and target natural community.
- EC6 – Kind and total coverage of tree species appropriate for management goals and target natural community.
- EC7 – Maintain the ecological conditions so that the mitigation UMAM scores are met for each of the specified community types.
- RC1 – Desired species showing evidence of increasing coverage.
- RC2 – No more than 1% coverage of invasive exotic and 5% nuisance native and non invasive exotic species unless otherwise specified in a management plan.
- RC3 – Increase in appropriate herbaceous, shrub and / or tree species.
- RC4 – Kind and total coverage of species appropriate for management goals and target natural community.
- RC5 – Kind and total coverage of herbaceous species appropriate for management goals and target natural community.
- RC6 – Kind and total coverage of tree species appropriate for management goals and target natural community.
- RC7 – Maintain the ecological conditions so that the mitigation UMAM scores are met for each of the specified community types.

EC = Enhancement Criteria

RC = Restoration Criteria

27



Perdido II

- Management

- Per David, we've lost the mitigation and need to "start over..."
- Prescribed fire (David recommended 2-year burn cycle)
- Herbicide to manage exotics, invasives, or shrubs
- Hog management
- Possible groundcover plantings (e.g., wiregrass, toothache grass, etc.)
- Possible additional or future thinning of pine

28



Dutex ILF



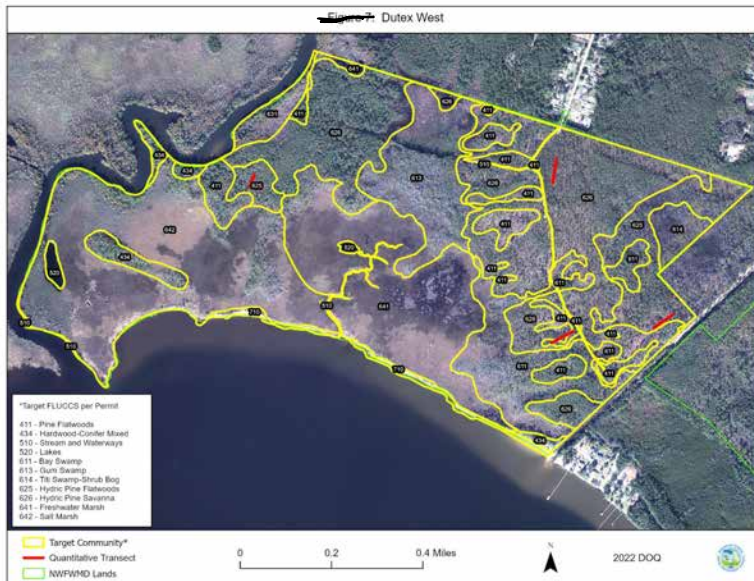
- Dutex ILF
- 800+ Acres
 - 107.16 Credits
 - Intensive Enhancement (Shrub Reduction; Fire; Herbicide; Thinning of Pine; Groundcover Plantings; Hydrologic)



29



Dutex (West Tract) Target Communities



30



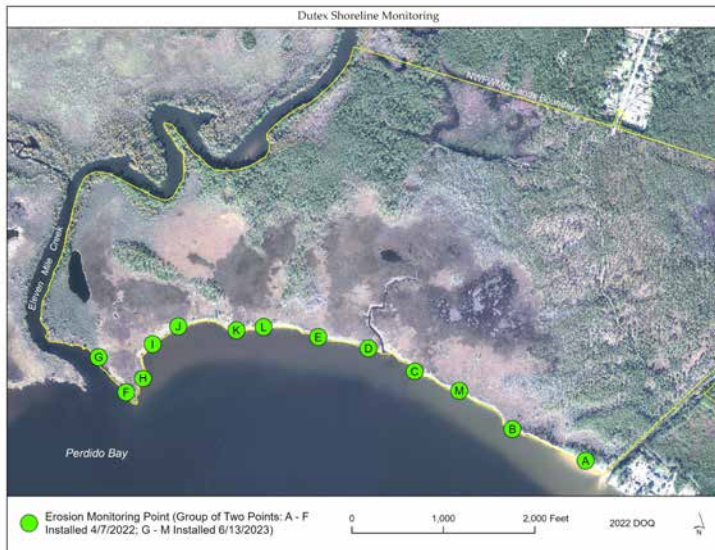
Dutex Shoreline Erosion



33



Dutex Shoreline Erosion Monitoring



34



Dutex Shoreline Erosion Monitoring

Dutex Shoreline
Shoreline Photo Monitoring (Erosion Pin Group E): 2022 – 2023



35



Dutex ILF

- USACE ILF Permit SAJ-2011-00287-TMF
- 107.16 Potential Credits; 75.09 Credits Released; 24.27 Credits Debited; 50.82 Current Credit Balance; 32.07 Credits Remain for Future Release If All Success Criteria Met
- 8 FDOT impacts offset to date.
- Performance Standards (per USACE-approved management plan)
 - Nuisance vegetation \leq 5% cover per acre.
 - Exotic vegetation \leq 1% cover per acre.
 - In hydric pine flatwoods restoration areas, an average of no more than 200 trees per acre.
 - In hydric pine savanna restoration areas, an average of no more than 120 trees per acre.
 - No more than an average of 200 pine trees per acre in any upland areas.
 - No observable decline in vegetation community health.
 - Native groundcover and shrub layer species appropriate for natural community type trending toward increase in diversity and coverage.

36



Dutex ILF

- Management
 - Prescribed fire (last burn?).
 - Herbicide to manage exotics, invasives, or shrubs.
 - Hog management.
 - Additional groundcover plantings (wiregrass, toothache grass, native forbs) scheduled for 2024.
 - Possible additional or future thinning of pine.
 - Shoreline is eroding, on average, at approximately 1 FT per year (more so toward mouth of Eleven Mile Creek). We have FDEP and USACE permits for a Living Shoreline, though a 2023 quote from Sea & Shoreline to do about half of what is needed was pushing two million dollars. Efforts to get a grant (Resilient Florida and National Coastal Resilience Fund) last year were not successful.

37



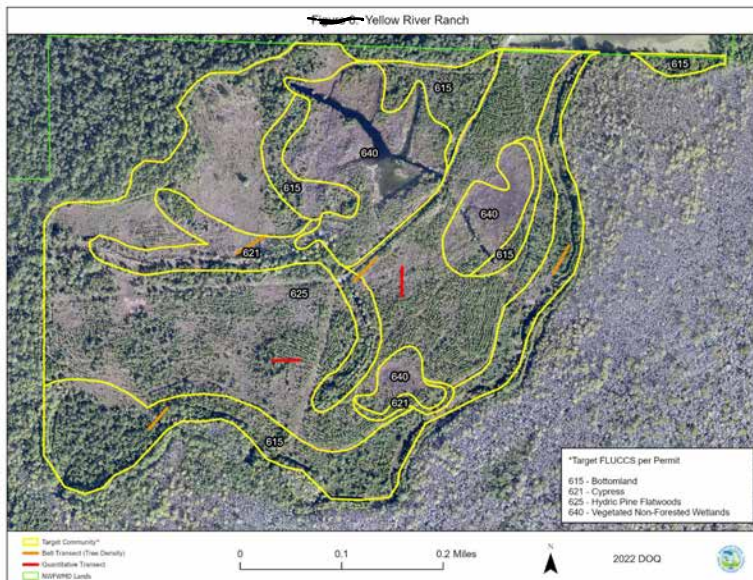
Yellow River Ranch ILF



38



Yellow River Ranch Target Communities



39



Yellow River Ranch ILF

- USACE ILF Permit SAJ-2011-00287-TMF
- 33.88 Potential Credits; 28.29 Credits Released; 18.28 Credits Debited; 10.01 Current Credit Balance (Current State Credit Balance = 2.02—federal and state credit ledgers are substantially out of sync because of different mitigation requirements between federal and state permits); 5.59 Credits Remain for Future Release If All Success Criteria Met
- 6 FDOT impacts offset to date
- Performance Standards (per USACE-approved management plan)
 - Nuisance vegetation ≤ 5% cover per acre.
 - Exotic vegetation ≤ 1% cover per acre.
 - Tree density of 352-440 trees/acre in bottomland restoration areas and 88-110 trees/acre in hydric pine flatwood restoration areas after five years.
 - Native groundcover and shrub layer species appropriate for natural community type trending toward increase in diversity and coverage.

40



Yellow River Ranch ILF

- Management
 - Prescribed fire
 - Herbicide to manage exotics, invasives, or shrubs
 - Hog management
 - Per David (5/22/2023)
 - Herbicide for popcorn tree
 - Burns – annually till back in shape
 - Once two burns ask for final release

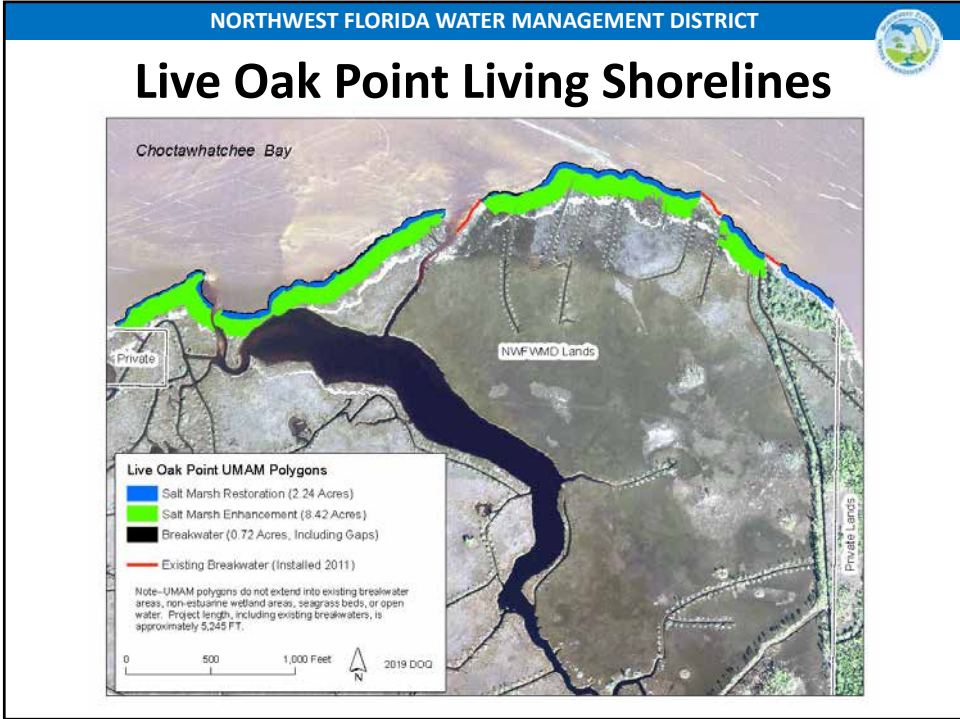
41



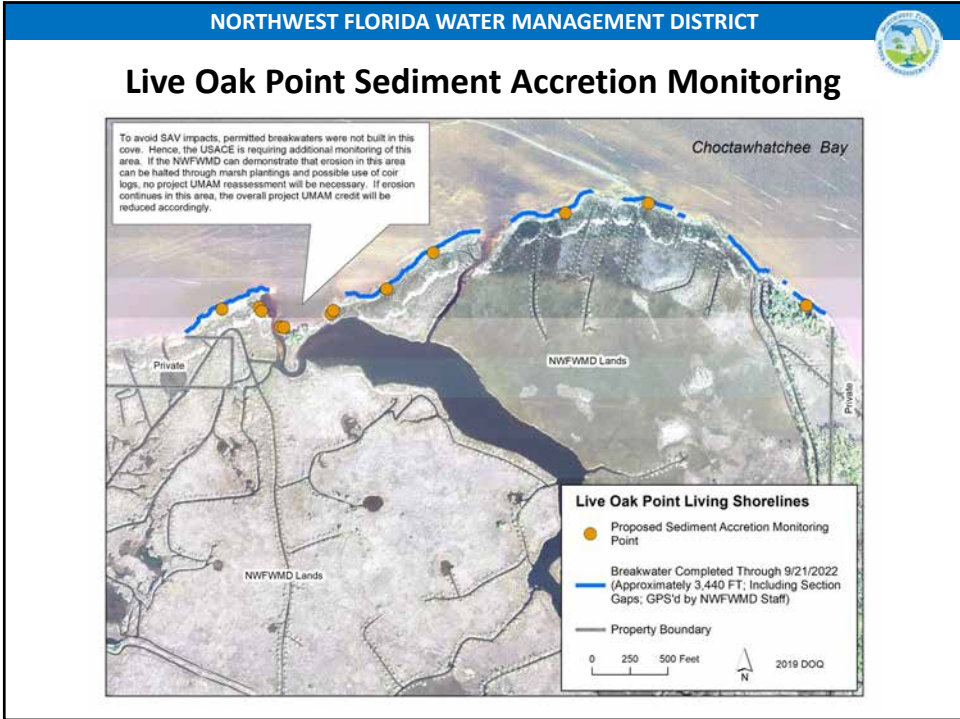
Live Oak Point Living Shorelines ILF



42



43



44



Live Oak Point Sediment Accretion Monitoring



45



Live Oak Point Living Shorelines Cove Monitoring

Monitoring of Erosion in Area Where Breakwaters Not Constructed*



Live Oak Point Living Shorelines ILF Project

0 100 200 Feet

*Breakwater construction halted to avoid SAV impacts. 2022 DOQ

Northwest Florida Water Management District
 81 Water Management Drive
 Havana, FL 32333-4712
 (904) 535-5559
 www.nwfwmd.state.fl.us

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Live Oak Point Living Shorelines Cove Monitoring



47



Live Oak Point Living Shorelines ILF

- USACE ILF Permit SAJ-2011-00287-TMF
- 2.61 Potential Credits; 0.52 Credits Released; 0.44 Credits Debited; 0.08 Current Credit Balance; 2.09 Credits Remain for Future Release If All Success Criteria Met
- 1 FDOT impact offset to date.
- Performance Standards (per USACE-approved management plan)
 - Exotic vegetation is <1% cover.
 - Nuisance vegetation <5% cover.
 - Planted vegetation is at appropriate densities and in a thriving condition. Minimum cover of planted vegetation to meet success criteria to be decided in consultation with the USACE and IRT (see Credit Release Schedule attachment).
 - All installed breakwaters are intact and functioning as designed.
 - Sediment accretion is ≥ 2.29 mm per year as measured by sediment accretion plates installed 0.5 meters marshward of the current shoreline.
 - Salt marsh vegetation recruitment is occurring.
 - Any other performance standards required by the USACE and IRT.

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Live Oak Point Living Shorelines ILF

- Management
 - Substantial quantitative monitoring.
 - Planting by CBA is ongoing (anticipated to be completed by 2024).
 - USACE is watching this project closely.

49



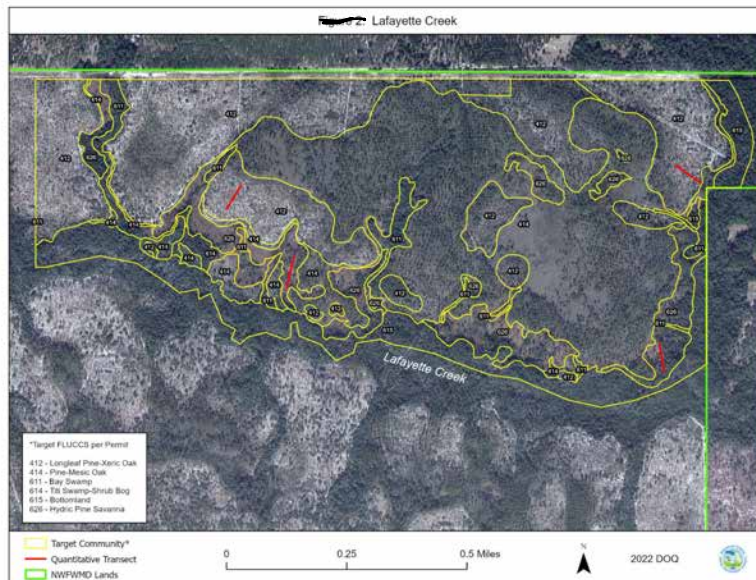
Lafayette Creek ILF



50



Lafayette Creek Target Communities



51



Lafayette Creek ILF

- USACE ILF Permit SAJ-2011-00287-TMF
- 50.30 Potential Credits; 34.50 Credits Released; 15.67 Credits Debited; 18.83 Current Credit Balance; 15.80 Credits Remain for Future Release If All Success Criteria Met
- 3 FDOT impacts offset to date
- Performance Standards (per USACE-approved management plan)
 - No observable decline in vegetation community health.
 - Native groundcover and shrub layer species appropriate for natural community type trending toward increase in diversity and coverage.
 - Species diversity is, at a minimum, stable in each wetland polygon.
 - No more than 1% coverage of invasive exotics and 5% coverage of nuisance native and non-invasive exotic species.
 - No more than 200 pine trees (longleaf or slash) per acre (saplings or mature trees) in upland areas.

52



Lafayette Creek ILF

- Management
 - Prescribed fire.
 - Herbicide to manage exotics, invasives, or shrubs.
 - Hog management.
 - Possible additional groundcover plantings (e.g., wiregrass, toothache grass, etc.).
 - Possible additional or future thinning of pine.

53



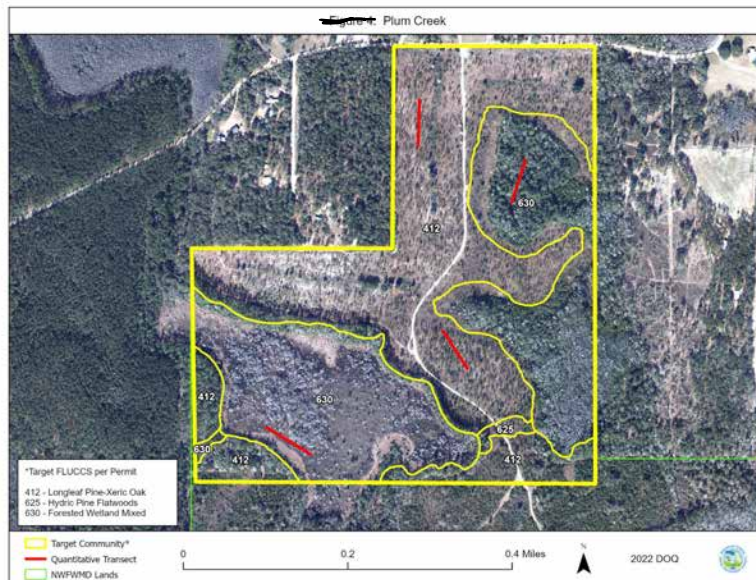
Plum Creek



54



Plum Creek Target Communities



55



Plum Creek

- Mitigation for SR 79 Holmes Creek Bridge and SR 79 Open Creek Bridge.
- 130-acre Site.
- Goal is to restore (70 acres) longleaf pine / wiregrass uplands; preserve (30 acres) forested wetlands; restore (30 acres) forested wetlands / cypress.
- Permits
 - USACE Permit SAJ-2006-4627 (MOD-AWP), issued 1/20/2009
 - USACE Permit SAJ-2005-08619 (MOD-AWP), issued 5/11/2009

56



Plum Creek

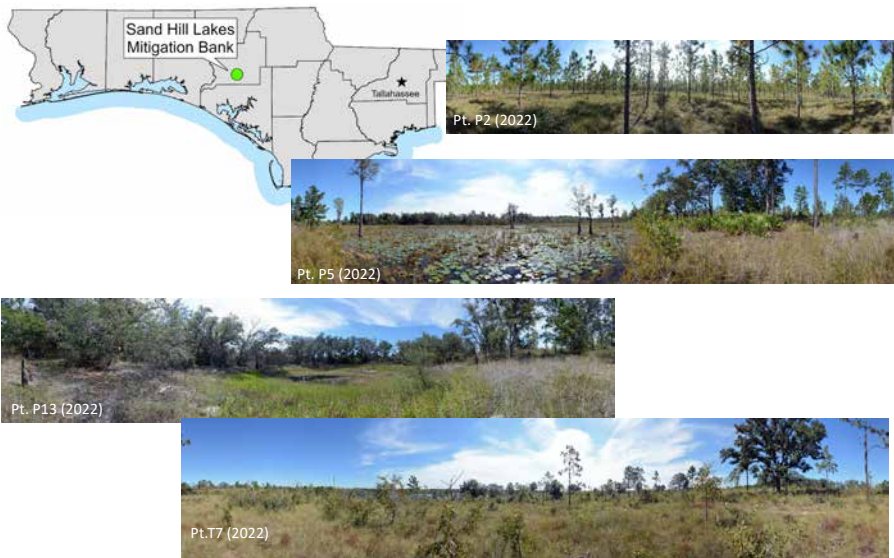
- Performance Standards (per USACE-approved management plan)
 - No observable decline in vegetation community health.
 - Species diversity is, at a minimum, stable in each wetland polygon.
 - No more than 1% coverage of invasive exotics and 5% coverage of nuisance native and non-invasive exotic species.
 - No more than 200 pine (longleaf or slash) trees per acre in upland areas.
 - Not less than 300 trees per acre in Polygon B (cypress, tupelo or other species).

- Management
 - Fire
 - Herbicide
 - Hog management

57



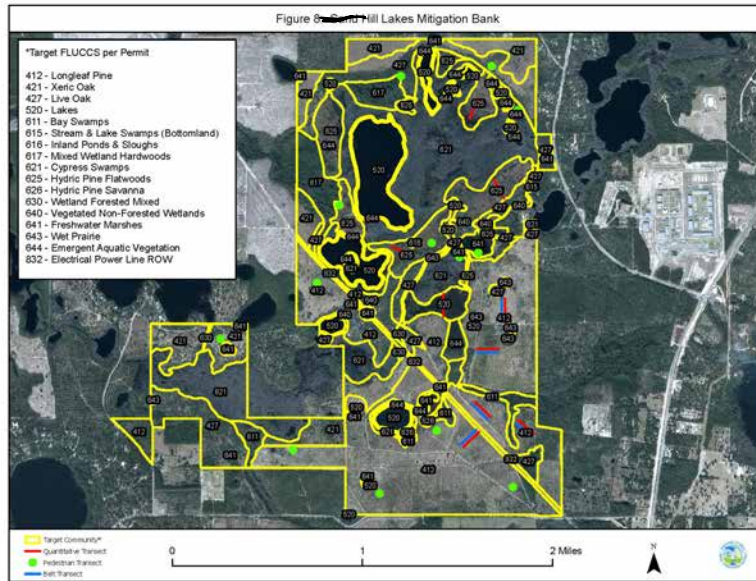
Sand Hill Lakes Mitigation Bank



58



Sand Hill Lakes Mitigation Bank Target Communities



59



Sand Hill Lakes Mitigation Bank

- USACE Permit SAJ-2002-5061 NW-DEB, issued 5/17/2006
- FDEP Permit 0227351-001, issued 9/6/2005
- Federal Ledger (WRAP): 284.04 Potential Credits; 241.44 Credits Released; 121.43 Credits Debited; 120.01 Current Credit Balance
- State Ledger (UMAM): 299.40 Potential Credits; 253.40 Credits Released; 122.14 Credits Debited; 131.26 Current Credit Balance
- Performance Standards (see federal MBI and FDEP permit)
- Management
 - Prescribed fire
 - Herbicide to manage exotics, invasives, or shrubs
 - Hog management
 - Fencing
 - Security
 - Etc.

60



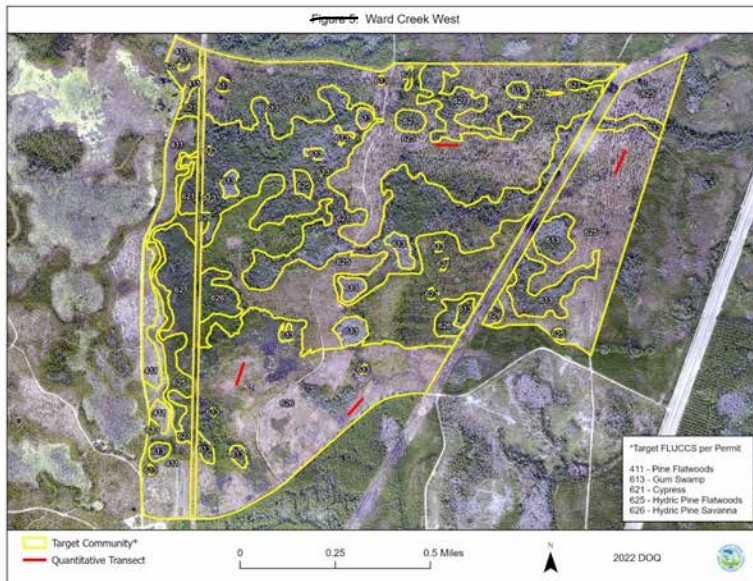
Ward Creek West ILF



61



Ward Creek West Target Communities



62



Ward Creek West ILF

- USACE ILF Permit SAJ-2011-00287-TMF
- 173.76 Potential Credits; 120.52 Credits Released; 67.06 Credits Debited; 53.46 Current Credit Balance; 53.24 Credits Remain for Future Release If All Success Criteria Met
- 6 FDOT impacts offset to date (7 per FDEP permits)
- In process of having Ward Creek West removed from the ILF Program (all mitigation obligations to be transferred to Sand Hill Lakes Mitigation Bank).

63



Ward Creek West ILF

- Performance Standards
 - Nuisance vegetation \leq 5% cover of site.
 - Exotic vegetation \leq 1% cover of site.
 - In the hydric pine flatwoods area, no more than 112 trees per acre.
 - In the hydric pine savanna less than 112 trees per acre.
 - No more than 200 longleaf pine trees per acre in upland areas.
 - No observable decline in vegetation community health.
 - Native groundcover and shrub layer species appropriate for natural community type trending toward increase in diversity and coverage.
- Management
 - Fire
 - Herbicide

64



Salters Lake



65



Salters Lake

- Mitigation for Hanks Road at Breastworks Branch Bridge
- Goal is to enhance floodplain hydrology via installation of one Low-Water-Crossing.
- USACE Permit SAJ-2015-00440 NW-RLT, issued 7/21/2017

66



Salters Lake

- Performance Standards
 - Low-water-crossing installed at appropriate elevation.
 - Non-failure of low-water-crossing.
 - At least 80 percent cover by appropriate wetland species (i.e., FAC or wetter).
 - Cover of Category I and II invasive exotic plant species within the 6.49-acre mitigation polygon, pursuant to the most current list established by the Florida Exotic Pest Plant Council at <http://www.fleppc.org>, and the nuisance species, dogfennel (*Eupatorium capillifolium*), Bermudagrass (*Cynodon* spp.), Bahiagrass (*Paspalum notatum*), and cattail (*Typha* spp.) shall total less than 5 percent.
 - Less than 20 percent mortality of planted wetland species. [Not Applicable]
 - Hydrologic enhancement will result in soils that are, at a minimum, saturated to the surface between 5 and 12.5 percent of the growing season.

67



Live Oak Peninsula ILF



68



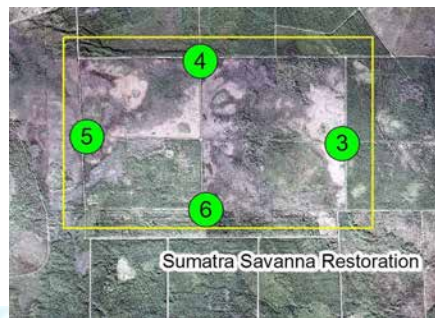
Tates Hell (Whiskey George) ILF



69



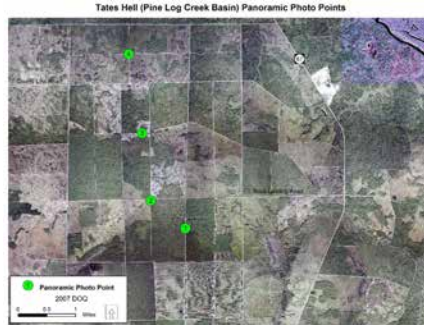
Tates Hell (Sumatra) ILF



70



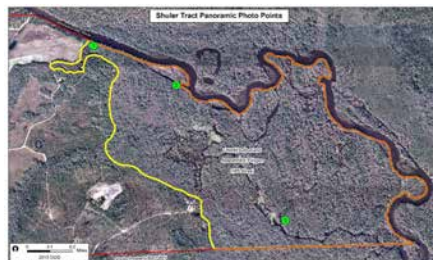
Tates Hell (Pine Log Creek) ILF



71



Shuler ILF



72



Bluff Springs



73



Mystic Springs



74



Cotton Creek



After LWC Installation



Before LWC Installation

75



Perdido I



76



Jones Swamp (Schluter)



77



Brewer



78



Rogers



79



Devils Swamp



80



Choctawhatchee-Caryville



81



Juniper Creek Headwaters Preserve



82



Lynn Haven



83



St. Joe Bay Preserve – Treasure Road



84



St. Joe Bay Preserve – Southgate



85



St. Joe Bay Preserve – Island Road



86



Cat Point



87



Tates Hell – Doyle Creek



88



Tates Hell – Womack Creek



89



Meginniss Arm



90

Select Year:

The 2023 Florida Statutes (including Special Session C)

Title XXVIII	Chapter 373	View Entire Chapter
NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE	WATER RESOURCES	

373.4137 Mitigation requirements for specified transportation projects.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:

(a) By July 1 of each year, the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in the program, shall submit to the water management districts a list of its projects in the adopted work program and an environmental impact inventory of habitat impacts and the anticipated mitigation needed to offset impacts as described in paragraph (b). The environmental impact inventory must be based on the rules adopted pursuant to this part, s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the Department of Transportation's plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts and the anticipated amount of mitigation needed for any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.

(b) The environmental impact inventory must include a description of habitat impacts, including location, acreage, and type; the anticipated mitigation needed based on the functional loss as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. [373.414\(18\)](#); identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

(c) Before projects are identified for inclusion in a water management district mitigation plan as described in subsection (4), the Department of Transportation must consider using credits from a permitted mitigation bank. The Department of Transportation must consider the availability of suitable and sufficient mitigation bank credits within the transportation project's area, the ability to satisfy commitments to regulatory and resource agencies, the availability of suitable and sufficient mitigation purchased or developed under this section, the ability to complete suitable existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds, and the ability to satisfy state and federal requirements, including long-term maintenance and liability.

(3)(a) To implement the mitigation option identified in the environmental impact inventory described in subsection (2), the Department of Transportation may purchase credits for current and future use directly from a

mitigation bank, purchase mitigation services through the water management districts or the Department of Environmental Protection, conduct its own mitigation, or use other mitigation options that meet state and federal requirements. Funding for the identified mitigation option as described in the environmental impact inventory must be included in the Department of Transportation's work program developed pursuant to s. [339.135](#). The amount programmed each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 must correspond to an estimated cost to mitigate for the functional loss identified in the environmental impact inventory described in subsection (2).

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in this program shall create an escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account shall be maintained by the authority for the benefit of the water management districts. Any interest earnings from the escrow account must remain with the authority.

(c) For mitigation implemented by the water management district or the Department of Environmental Protection, as appropriate, the amount paid each year must be based on mitigation services provided by the water management districts or the Department of Environmental Protection pursuant to an approved water management district mitigation plan, as described in subsection (4). The water management districts or the Department of Environmental Protection, as appropriate, may request payment no sooner than 30 days before the date the funds are needed to pay for activities associated with development or implementation of permitted mitigation that meets the requirements of this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332, in the approved water management district mitigation plan described in subsection (4) for the current fiscal year. The projected amount of mitigation shall be reconciled each quarter with the actual amount of mitigation needed for projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's programming of funds shall be adjusted to reflect the mitigation as permitted. If the water management district excludes a project from an approved water management district mitigation plan, if the water management district cannot timely permit a mitigation site to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or if the proposed mitigation does not meet state and federal requirements, the Department of Transportation may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies state and federal requirements. Upon final payment for mitigation of a transportation project as permitted, the obligation of the Department of Transportation or the participating transportation authority is satisfied, and the water management district or the Department of Environmental Protection, as appropriate, has continuing responsibility for the mitigation project.

(d) Beginning with the March 2015 water management district mitigation plans, each water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance and monitoring, and other costs necessary to meet the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation shall purchase the bank credits.

(e) For mitigation activities occurring on existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds before July 1, 2013, the water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation or a participating transportation authority at a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records

must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332.

(4) Before March 1 of each year, each water management district shall develop a mitigation plan to offset only the impacts of transportation projects in the environmental impact inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must be developed in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks. In developing such plans, the water management districts shall use sound ecosystem management practices to address significant water resource needs and consider activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration, or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that the activities comply with the mitigation requirements adopted under this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services; provide the functional gain as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. [373.414\(18\)](#); describe how the mitigation offsets the impacts of each transportation project as permitted; and provide a schedule for the mitigation services. The water management districts shall maintain records of costs incurred and payments received for providing these services. Records must include, but are not limited to, planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in providing the mitigation services to offset the permitted transportation project impacts, these moneys must be refunded to the Department of Transportation or participating transportation authority. The mitigation plan shall be submitted to the water management district governing board or its designee for review and approval. At least 14 days before approval by the governing board, the water management district shall provide a copy of the draft mitigation plan to the Department of Environmental Protection and any person who has requested a copy. Subsequent to the governing board approval, the mitigation plan shall be submitted to the Department of Environmental Protection for approval. The plan may not be implemented until it is submitted to, and approved in part or in its entirety by, the Department of Environmental Protection.

(a) Specific projects may be excluded from the mitigation plan, in whole or in part, and are not subject to this section upon the election of the Department of Transportation, a transportation authority if applicable, or the appropriate water management district. The Department of Transportation or a participating transportation authority may not exclude a transportation project from the mitigation plan if mitigation is scheduled for implementation by the water management district in the current fiscal year unless the transportation project is removed from the Department of Transportation's work program or transportation authority funding plan, the mitigation cannot be timely permitted to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or the proposed mitigation does not meet state and federal requirements. If a project is removed from the work program or the mitigation plan, costs spent by the water management district before removal are eligible for reimbursement by the Department of Transportation or participating transportation authority.

(b) When determining which projects to include in or exclude from the mitigation plan, the Department of Transportation shall investigate using credits from a permitted mitigation bank before those projects are submitted for inclusion in a water management district mitigation plan. The Department of Transportation shall exclude a project from the mitigation plan if the investigation undertaken pursuant to this paragraph results in the conclusion

that the use of credits from a permitted mitigation bank promotes efficiency, timeliness in project delivery, cost-effectiveness, and transfer of liability for success and long-term maintenance.

(5) The water management district shall ensure that mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. part 332 are met for the impacts identified in the environmental impact inventory for which the water management district will implement mitigation described in subsection (2), by implementation of the approved mitigation plan described in subsection (4) to the extent funding is provided by the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349, if applicable. In developing and implementing the mitigation plan, the water management district shall comply with federal permitting requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. part 332. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements upon notice and coordination with the Department of Transportation or participating transportation authority.

(6) The water management district mitigation plans shall be updated annually to reflect the most current Department of Transportation work program and project list of a transportation authority established pursuant to chapter 348 or chapter 349, if applicable, and may be amended throughout the year to anticipate schedule changes or additional projects that may arise. Before amending the mitigation plan to include new projects, the Department of Transportation must consider mitigation banks and other available mitigation options that meet state and federal requirements. Each update and amendment of the mitigation plan shall be submitted to the governing board of the water management district or its designee for approval. However, such approval shall not apply to a deviation as described in subsection (5).

(7) Upon approval by the governing board of the water management district and the Department of Environmental Protection, the mitigation plan shall satisfy the mitigation requirements under this part for impacts specifically identified in the environmental impact inventory described in subsection (2) and any other mitigation requirements imposed by local, regional, and state agencies for these same impacts. The approval of the governing board of the water management district and the Department of Environmental Protection authorizes the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval is necessary.

(8) This section does not eliminate the need for the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part which are not identified in the environmental impact inventory described in subsection (2).

History.—s. 1, ch. 96-238; s. 36, ch. 99-385; s. 1, ch. 2000-261; s. 93, ch. 2002-20; s. 39, ch. 2004-269; s. 30, ch. 2005-71; s. 12, ch. 2005-281; s. 1, ch. 2009-11; s. 3, ch. 2012-174; s. 22, ch. 2014-223; s. 5, ch. 2016-11.