



MITIGATION BANKING IN FLORIDA

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ABOUT ME

- MANAGING MITIGATION banks & CREDIT SALES SINCE 2004
- STARTED Mbg in 2017
- Act as a Liaison
- Due-diligence
- Permitting
- Marketing/sales

MITIGATION BANKING 101



History of
mitigation banking

current state of
mitigation banking

The Future of
mitigation banking

WHAT IS A MITIGATION BANK?

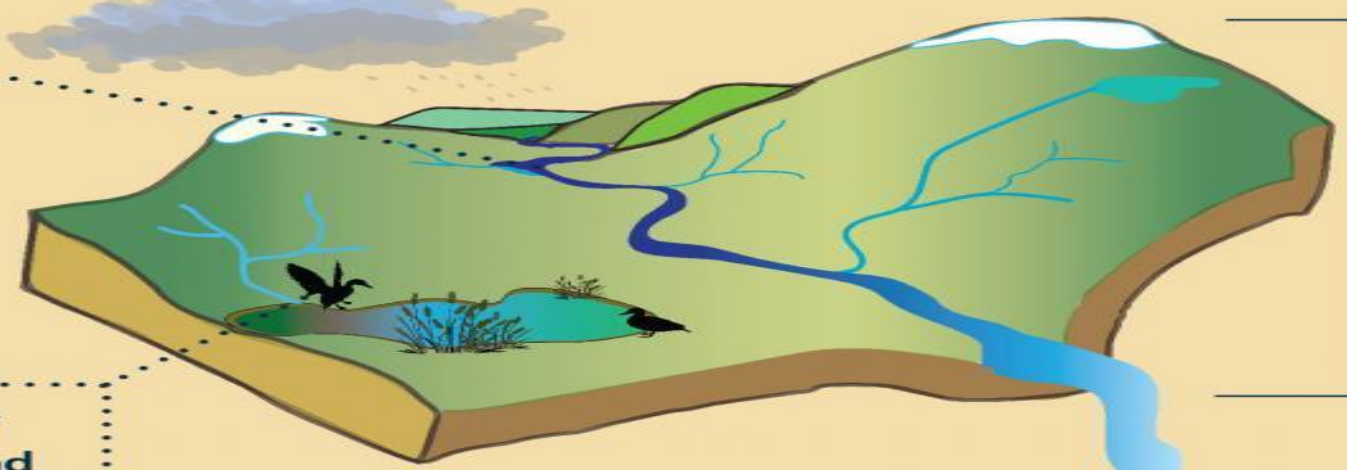
A Mitigation bank is the preservation, enhancement, restoration or creation of a wetland, stream, or habitat conservation area which offsets, or compensates for, expected adverse impacts to similar nearby ecosystems.

WHY #CleanWaterRules

Clean water upstream means cleaner water downstream.

Our Clean Water Rule protects the streams and wetlands that feed our rivers, lakes, bays and coastal waters. These waters are critical for agriculture, healthy communities, our economy and our way of life.

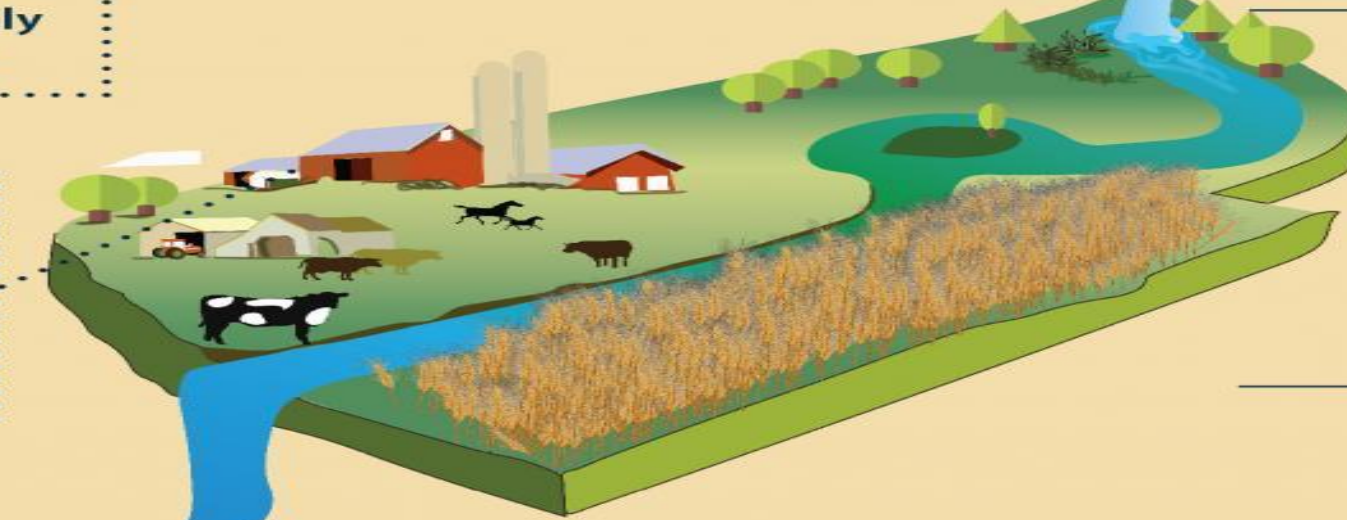
60 % of stream miles in the U.S. only flow seasonally or after rain.



Streams and wetlands filter pollution, reduce flooding and give fish and wildlife a place to live.

One-third of threatened and endangered species live only in wetlands.

Farms depend on clean water for irrigation, crops and livestock.



Normal farming and ranching activities – like planting, harvesting and moving livestock – won't be affected by the Clean Water Rule.

1 in 3 Americans get drinking water from seasonal and rain-dependent streams.



Tourism, fishing, recreation, energy production, manufacturing and other industries that depend on clean water add billions of dollars to our economy every year.

19 million people per year go paddling, spending \$86 billion on gear and trips.



Fishing adds \$48 billion to the economy every year, and supports nearly a million jobs.

The Clean Water Rule protects streams and wetlands that we depend on for our health, communities, and economy.



HISTORY OF MITIGATION BANKING

- 1972 : *The Clean Water Act (CWA) was passed : avoid and minimize the impact on designated water bodies and provide compensatory mitigation for unavoidable impacts.*
- 1988 : *a national policy of 'No Net Loss' of wetland values and functions emerged*
- 1993 : *The concept of mitigation banking started taking shape*
- 1995 : *The guiding principles released by the U.S. Environmental Protection Agency (USEPA) and the U.S. Army Corps of Engineers (USACE) on the role of mitigation banks in the CWA 404 program were expanded with guidelines on the establishment and the use of mitigation banks. •*
- 2008 : *after four years of planning, a federal rule to establish standards for mitigation banks, in-lieu fee programs and individual mitigation (also called permittee-responsible mitigation) was implemented. These standards are consistent with those in the CWA 404.*
- 2015 : *Memorandum on "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investments"*

BEFORE MITIGATION BANKS

Onsite and (single project) Offsite mitigation projects were challenged on their effectiveness. Large scale environmental restoration projects are more beneficial than small/ individual postage-stamp sized mitigation projects.

Mitigation banking recognized by EPA and ACOE for providing:

- Easier Monitoring
- Long Term Stewardship
- Unambiguous transfer of liability for assuring mitigation success from the permittee to the mitigation banker
- Regulatory Simplification for Applicants and Regulators (reducing time!)

Benefits of mitigation banking



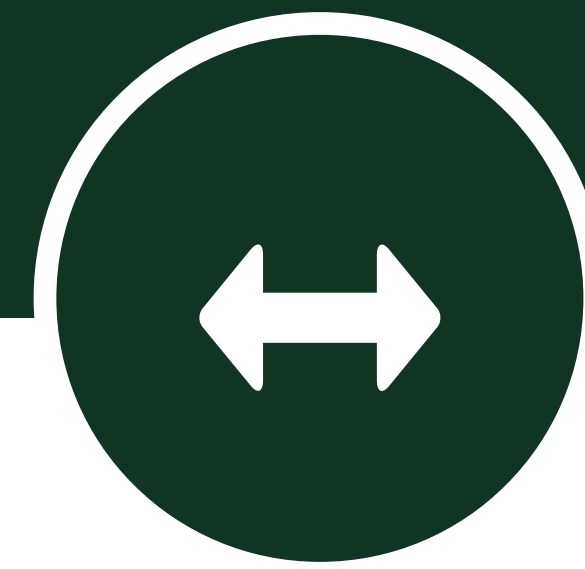
Save Time



Save Money



Avoid Risk



Maximize Space



Environment



SAVE TIME

- *Reduces Regulator's time to review and process permit applications.*
- *Quicker permit turnaround since the mitigation banks are already constructed and functioning.*
- *Eliminates Developer's requirements to subcontract design, construction, maintenance & monitoring.*

SAVE MONEY

- *Cost of land*
- *Permitting*
- *legal*
- *Construction*
- *Monitoring & Maintenance Activities*

ELIMINATES LIABILITY/RISK

- *Purchasing credits from a mitigation bank transfers all risk to the mitigation banker.*
- *Unexpected money to resolve wetlands for noncompliance projects.*

MAXIMIZE SPACE

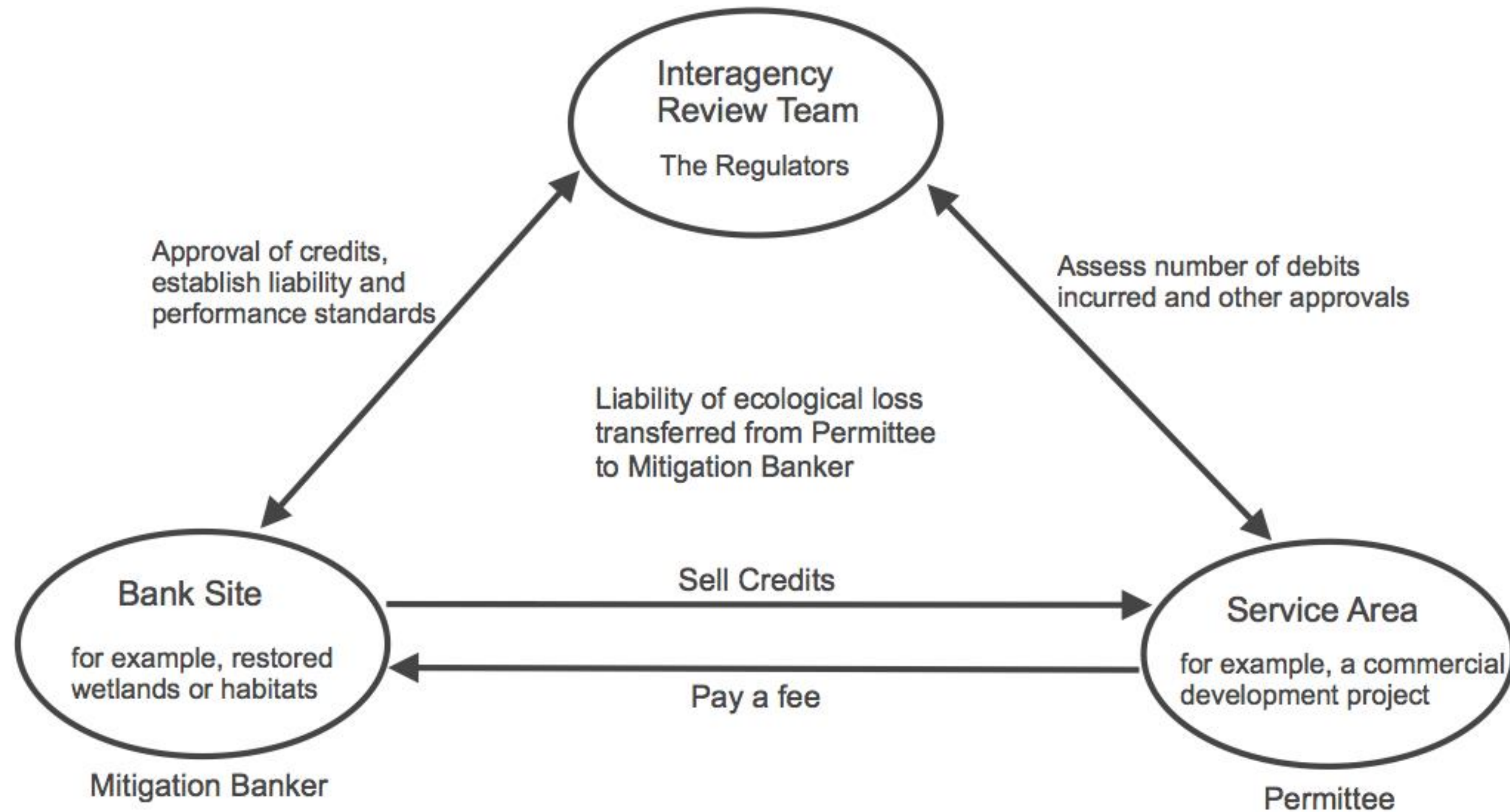
Buying credits from a mitigation bank, allows the developer to maximize his usable land and put that space to its highest and best use.



ENVIRONMENT

Financial resources, biological planning & scientific expertise is consolidated to increase the potential for a long-term mitigation plan.

Mitigation credit establishment process





WHO DRAINED THE SWAMP?

- By the 1960's, political, financial, and institutional incentives to drain or destroy wetlands were in place. The Federal Government encouraged land drainage and wetland destruction through a variety of legislative and policy instruments.
- the Watershed Protection and Flood Prevention Act (1954) directly and indirectly increased the drainage of wetlands near flood-control projects.
- Since the 1970's, there has been increasing awareness that wetlands are valuable areas that provide important environmental functions.

WETLAND LOSS

- Estimates indicate that wetland losses in the conterminous United States from the mid-1970's to the mid-1980's were about 290,000 acres per year
- This is about one-half of the losses that occurred each year in the 1950's and '60's.
- From about 1987 to the present, Federal efforts to restore wetlands have increased



RESTORATION

- Restore the Hydrology with Low Water Crossings
- Remove Invasive Species
- Prescribed fire burning
- Plant native species

The Federal Compensatory Mitigation Rule

- The Federal Compensatory Mitigation Rule identifies a hierarchy of mitigation bank credits as the first option on the hierarchy opposed to onsite and offsite mitigation.
- Therefore, when an applicant proposes permittee-sponsored mitigation (onsite or offsite mitigation) within an established federal mitigation bank service area with available credits, it is important that the USACE document compelling reasons to depart from the hierarchy of mitigation preference established by rule in 33 CFR §332.3(b).
- The preference expressed for mitigation banks was a deliberate, thoughtful decision of the USACE and EPA based upon the science-based recommendations of the National Research Council's 2001 report, *Compensating for Wetland Losses under the Clean Water Act*. It was recognized during rule development that mitigation banks had a demonstrably better record of SUCCESSFUL mitigation.



FEDERALLY PERMITTED MITIGATION BANKS IN FLORIDA

- There are currently approx. 70 federally approved permitted mitigation banks for public use (and approx. 40 mitigation banks pending federal approval) within the Jacksonville/USACE District which encompasses ____ Drainage Basins of the 5 Water Management Districts located throughout Florida.
- Can you guess how many drainage basins are in Florida?
- Can you name all 5 WMD?



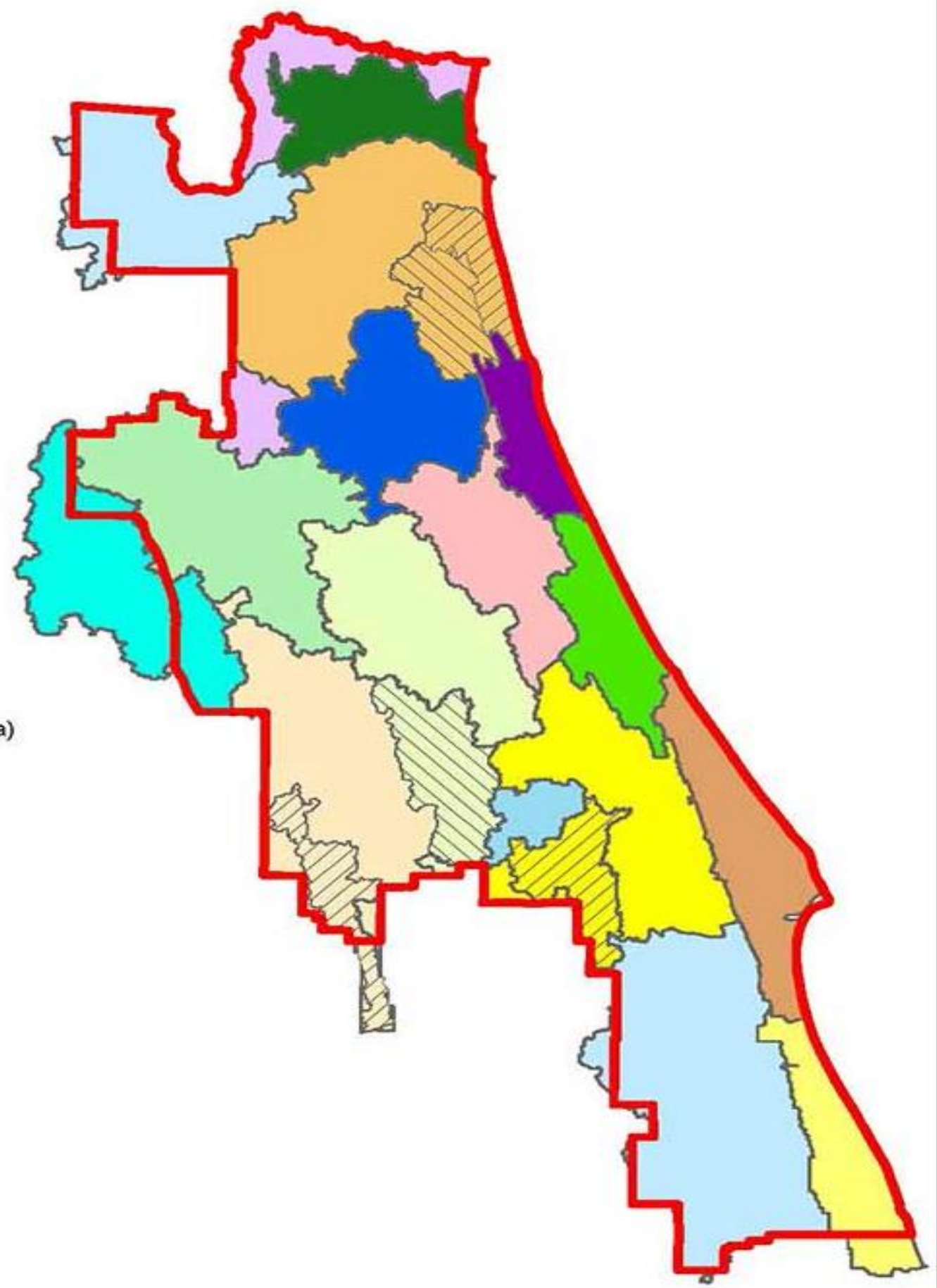
MSA SERVICE AREA

5 Water Management Districts:
Drainage Basin Maps

Each Mitigation Bank Permit identifies a geographic area served by the permitted mitigation bank within a defined region (mitigation service area).



Legend

-  SJRWMD Boundary
-  1 Upper St. Marys River
-  2 Middle + Lower St. Marys River
-  3 Nassau River
-  4 Northern St. Johns River + Northern Coastal
-  5 Sixmile + Julington Creeks Nested in 4
-  6 Tolomato River + Intracoastal Nested in 4
-  7 Western Etoniah Lakes
-  8 St. Johns River (Welaka to Bayard)
-  9 Pellicer Creek + Matanzas River
-  10 Florida Ridge
-  11 Northern Ocklawaha River
-  12 Southern Ocklawaha River
-  13 Palatka River Nested in 12
-  14 St. Johns River (Wekiva to Welaka)
-  15 Wekiva River Nested in 14
-  16 Crescent Lake
-  17 Halifax River
-  18 St. Johns River (Canaveral Marshes to Wekiva)
-  19 Econlockhatchee River Nested in 18
-  20 Southern St. Johns River
-  21 Northern Indian River Lagoon
-  22 Central Indian River Lagoon
-  23 Lake Jesup




SJRWMD Basin Map (23)

SJRWMD
Mitigation Banking Basins

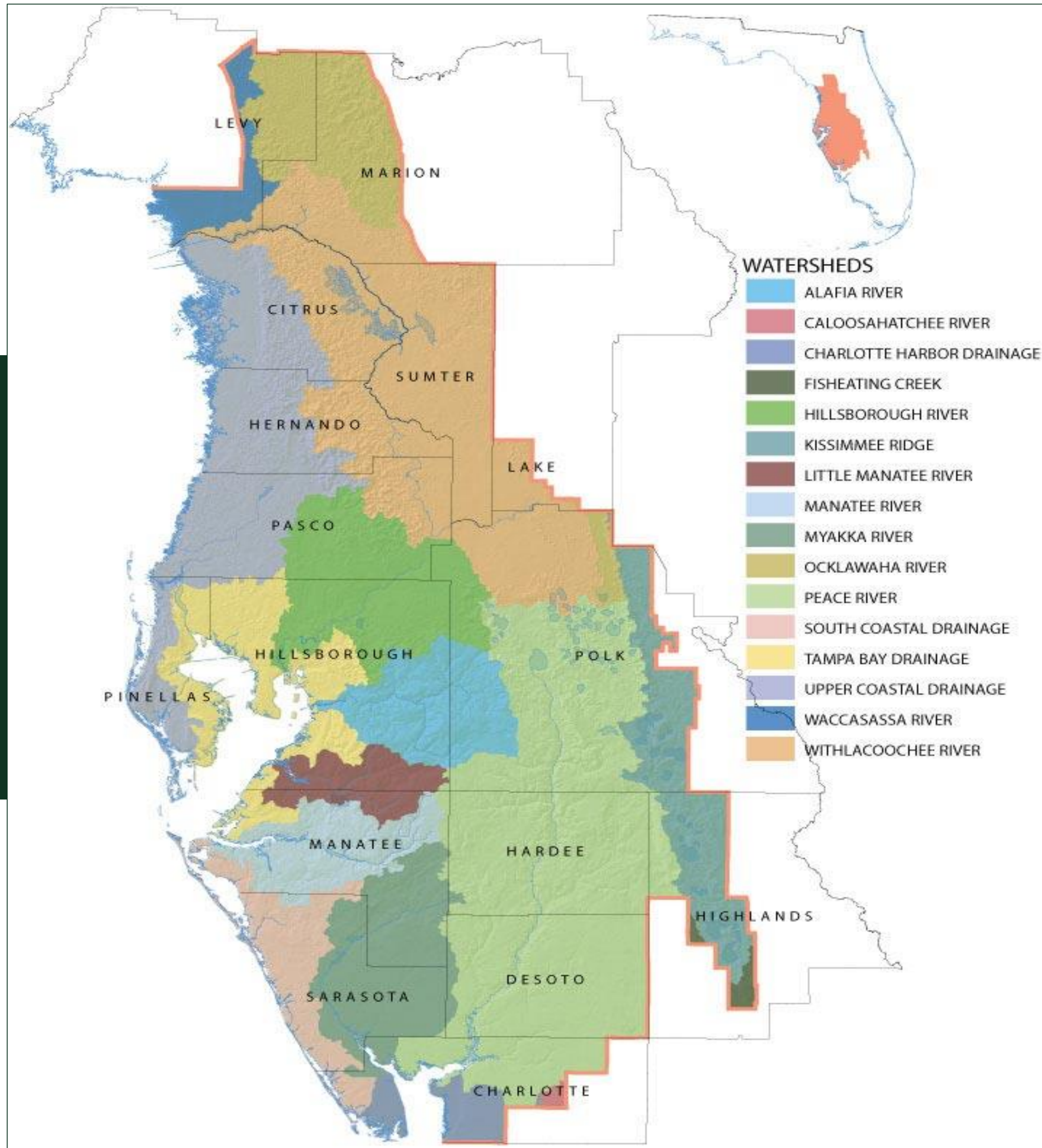
10 5 0 10 Miles



1 = 2000000

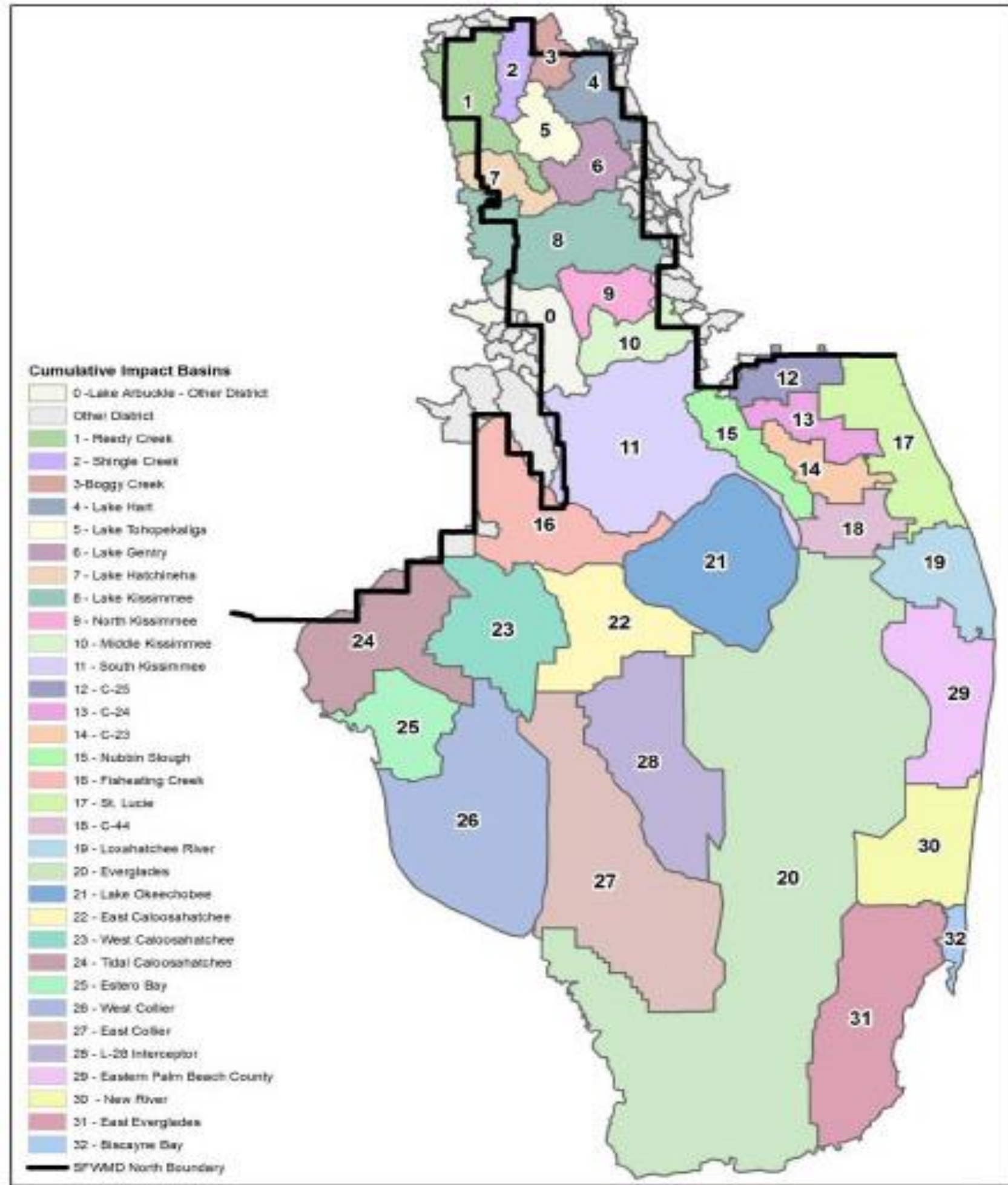
The St. Johns River Water Management District prepares and uses this information for its own purposes and this information may not be suitable for other purposes. This information is provided as is. Further documentation of this data can be obtained by contacting: St. Johns River Water Management District, Geographic Information Systems Program Management, P.O. Box 1429, 4049 Reid Street Palatka, Florida 32178-1429 Tel: (386) 329-4176.





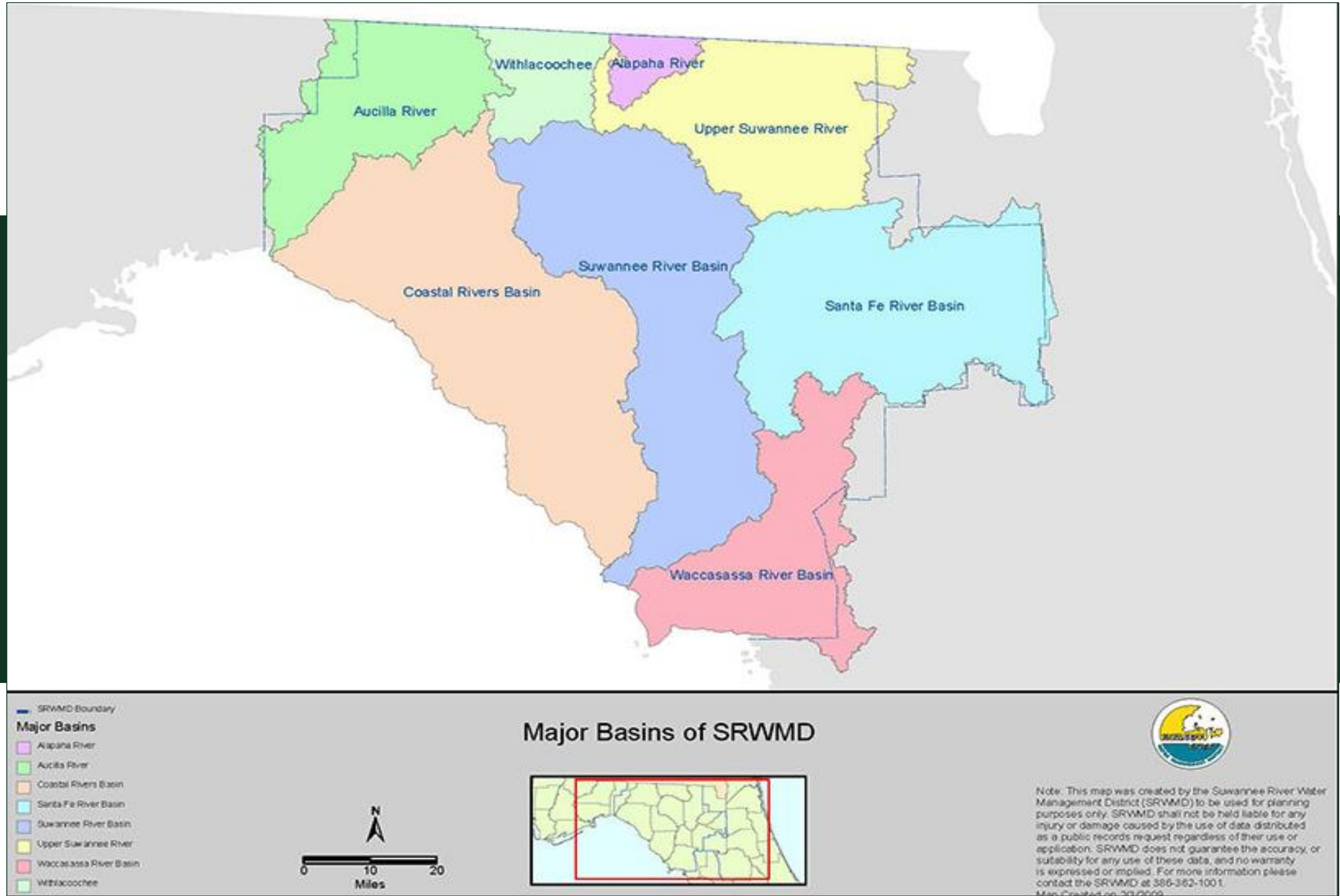
Swfwmd basin map (16)

**APPENDIX D: SFWMD Basins
for Cumulative Impact Assessments & Mitigation Bank Service Areas**



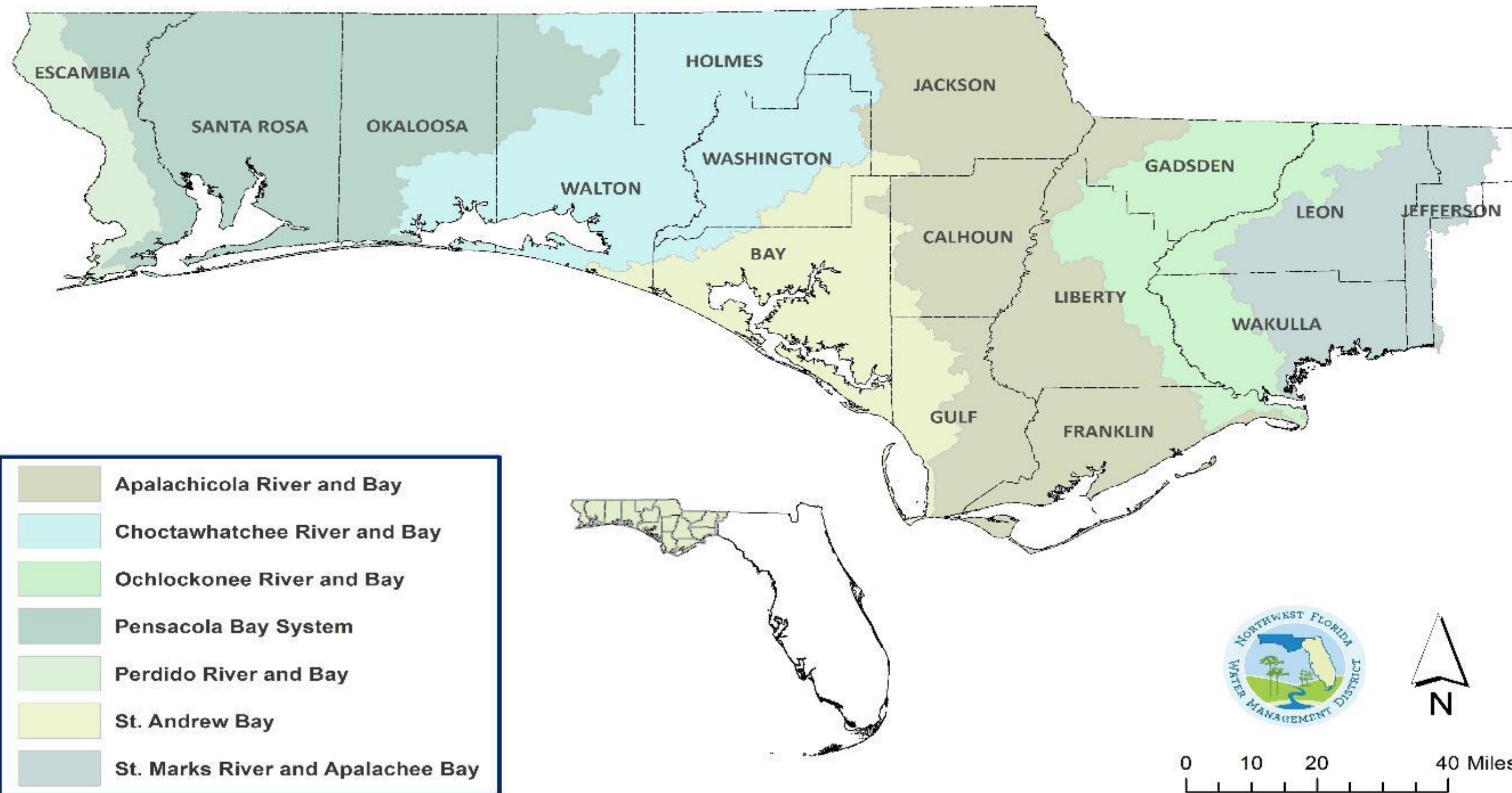
A-20

SFWMD Basin Map (32)



Srwmd basin map (8)

Major Watersheds of the Northwest Florida Water Management District



Nwfwmd basin map (7)



MITIGATION CREDIT

- *“Mitigation credit” is a standard unit of measure which represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities.*
- *Assessment and Scoring for the three categories: Location and Landscape Support, Water Environment, and Community Structure.*



UMAM

- *regulatory agencies utilize the Uniform Mitigation Assessment Methodology (UMAM) since 2005 to determine the functional loss of the wetland impact.*
- *This method involves scoring several variables (such as: location, landscape and quality of the wetland) to come up with a multiplier between 0.0 and 1.0. When the UMAM score of the impact area is multiplied by the acreage of the impact site, the number of the UMAM credits required to offset the impact is determined.*

Example of credit release schedule

Credit Release Activity	% Release	Est. Timetable	Forested Credits
File Intesive CE for entire bank site and Provide Financial Assurance	15%	1 month post issuance	8.4
Construction Credit Release, Install Low Water Crossings/Control Structures and Earthen Ditch Blocks	25%	2 months post issuance	14
Implement invasive exotic/nuisance vegetation eradication	5%	2 months post issuance	2.8
Complete Planting Plan	20%	6 months post issuance	11.2
Implement Prescribed Fire Management Program	5%	5 years post issuance	2.8
Interim Success Attainment, Annual monitoring indicating trending to success	5% per year for 4 years	1-5 years post issuance	11.2
Full Success Attainment	Remaining 10%	5-6 years after enhancement	6.2
TOTAL	100%		56.6

THE FUTURE OF MITIGATION BANK

- *The Trump administration plans to separately write a new regulation to replace the water rule with a more industry-friendly definition of federal power over waterways.*
- *“We are taking significant action to return power to the states and provide regulatory certainty to our nation's farmers and businesses,” EPA Administrator Scott Pruitt.*



MITIGATION BANKING HELPFUL LINKS/RESOURCES:

- **FEDERALLY PERMITTED AND PENDING FLORIDA MITIGATION BANKS (STATUS OF PERMITS, AVAILABLE CREDITS AND LEDGER):**
- [HTTPS://RIBITS.USACE.ARMY.MIL/RIBITS_APEX/F?P=107:158:670984369484::NO:RP](https://ribits.usace.army.mil/ribits_apex/f?p=107:158:670984369484::NO:RP)
: (CLICK GO ON TO WEBPAGE)
- **THE 5 WMD MITIGATION BANKS:**
- SJRWMD MITIGATION BANKS:
- [HTTP://WEBAPUB.SJRWMD.COM/AGWS10/MT/](http://webapub.sjrwmd.com/agws10/mt/)
- SWFWMD MITIGATION BANKS:
- [HTTP://WWW.SWFWMD.STATE.FL.US/FILES/DATABASE/SITE_FILE_SETS/2575/ERP_MITIGATION_BANK_WETLAND_CREDIT_LEDGERS.PDF](http://www.swfwmd.state.fl.us/files/database/site_file_sets/2575/erp_mitigation_bank_wetland_credit_ledgers.pdf)
- SFWMD MITIGATION BANKS: (NEED TO SEARCH BY MITIGATION BANK PERMIT NUMBER):
- [HTTP://MY.SFWMD.GOV/EPERMITTING/POPULATELOVS.DO?FLAG=1](http://my.sfwmd.gov/epermitting/populatelovs.do?flag=1)
- NFWWMD MITIGATION BANKS:
- [HTTPS://WWW.NFWWMDWETLANDS.COM/UMBRELLA-PLAN/WATERSHEDS](https://www.nfwmdwetlands.com/umbrella-plan/watersheds)
- SRWMD MITIGATION BANKS: NEED TO SEARCH BY MITIGATION BANK PERMIT NUMBER:
- [HTTPS://PERMITTING.SJRWMD.COM/SREPERMITTING/JSP/SEARCH.DO?THEACTION=PERMITNUMSEARCH](https://permitting.sjrwmd.com/srepermitting/jsp/search.do?theaction=PERMITNUMSEARCH)



QUESTIONS?

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