



Florida Department of Environmental Protection

Mangrove Wetlands

**September
9, 2015**





Overview

- The Submerged Lands and Environmental Resource Coordination Program
- Permitting criteria
- Resources
- Compliance Assurance
- Questions



SLERC

- Comprehensive regulatory program that regulates most alterations of the land
- Permission to perform activities on or using state-owned submerged lands
- Trimming and alteration of mangroves



“Regulatory” Program - Wetland and Surface Water Permitting



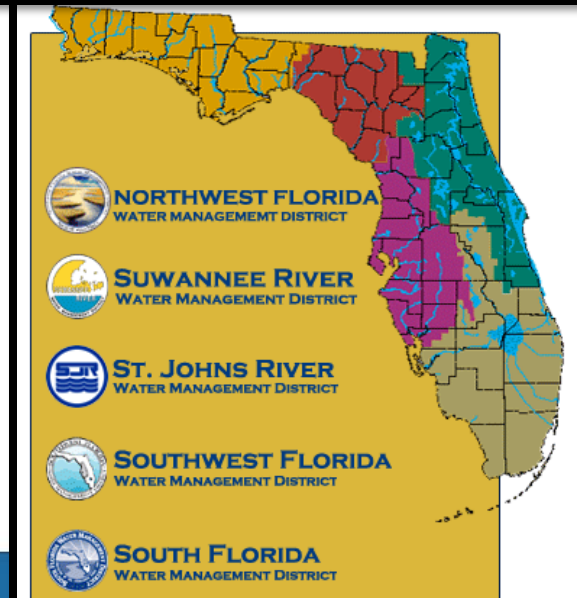
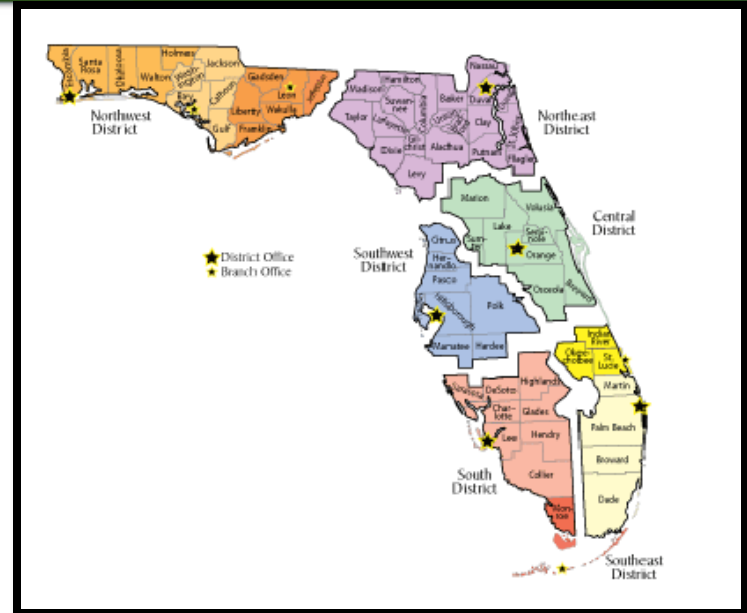
Alterations to the landscape that has the potential to affect the flow of surface waters





“Regulatory” Program – Wetland and Surface Water Permitting

- Implemented by the **Department** and the **Water Management Districts**
- **Intent/goal:** No net loss in wetland and other surface water functions
- Division of Responsibilities:
 - DEP
 - Individual Single Family Residence (SFR)
 - Marinas not associated w/ other upland development
 - Utilities
 - Governmental dredging & other “in water” works
 - Associated SSL Authorization w/ the above
 - Mangroves
 - WMDs
 - Residential & commercial development
 - Roads
 - Agriculture
 - Associated SSL Authorization w/ the above





“Proprietary” Program – Permission to use state owned submerged lands

- Lands waterward of the ordinary high water line or mean high water line that are beneath *navigable* fresh water or tidally influenced waters were titled to the State of Florida when it became a state on March 3, 1845
- Title to these lands is held by the Board of Trustees (The Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.)



Mangrove Trimming and Preservation Act

- **General Intent:** to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation and destruction, while providing waterfront property owners their riparian right of view by allowing mangrove *trimming* (Section 403.9323, F.S.)
- **Intent (cont.):** to encourage waterfront property owners to voluntarily maintain mangroves, encourage mangrove growth, and plant mangroves along their shorelines (Section 403.9323, F.S.)



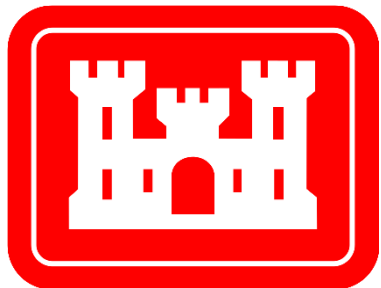
Mangrove Trimming and Preservation Act

A permit under the act is not required if trimming or alteration of mangroves is part of an activity that is exempt from the permitting requirements pursuant to Section 403.813, Florida Statute, or is permitted under part IV of Chapter 373, Florida Statute.



“Regulatory” Program – Wetland and Surface Water Permitting

- Permitting Agencies in Florida regulating development in wetlands
 - Federal – US Army Corps of Engineers
 - State – Department of Environmental Protection / Water Management Districts
 - Local Governments – Lee County, City of Sanibel





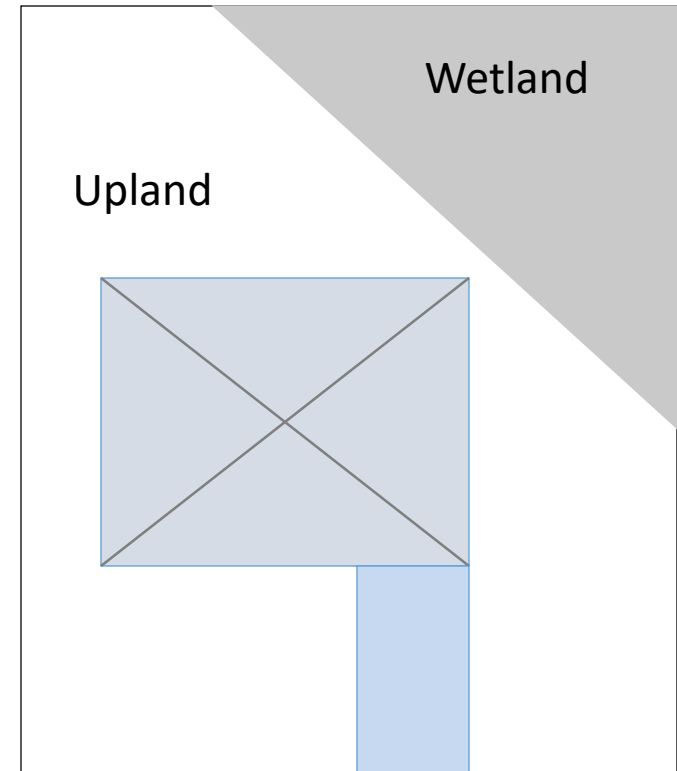
Forms of Authorization

- **Exemptions:** No permit required if activity meets thresholds defined in Statute or Rule
- **General Permits:** activities that have been determined to have minimal direct and secondary impacts
- **Individual Permits:** all other activities that do not qualify for exemption or general permit



Exempt Activity

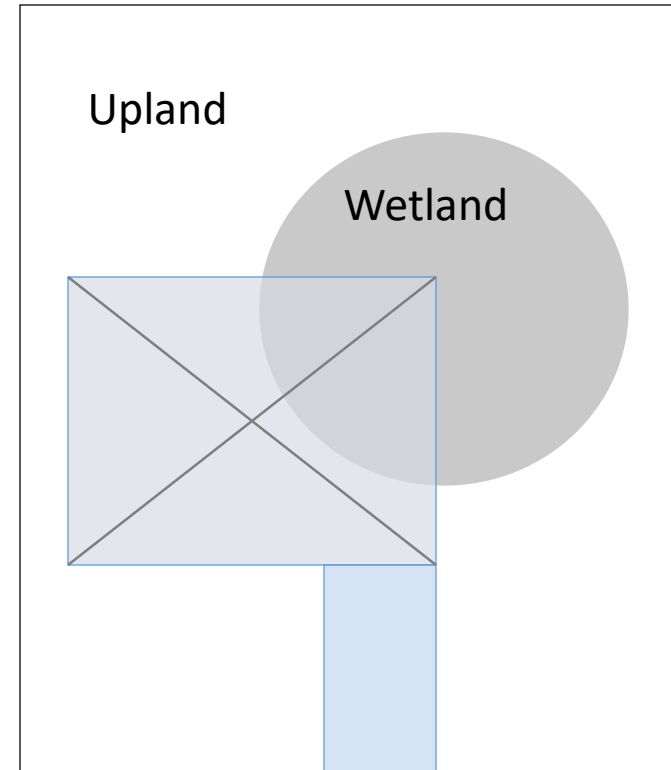
- FDEP
 - No permit required
 - No wetlands impacted or lost due to dredging and filling activities
 - \$100 fee for the Department to verify
 - Up to 30 days to review application





General Permit Required

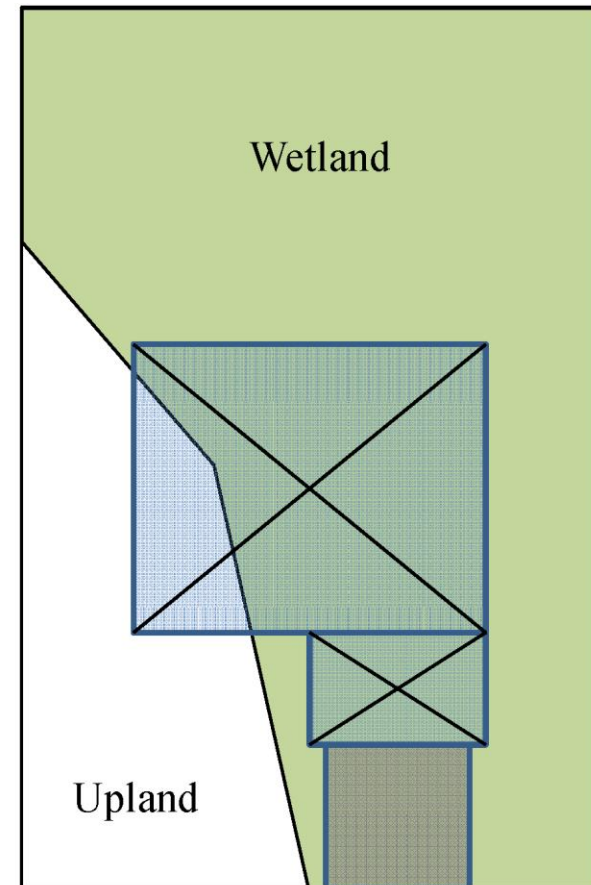
- FDEP
 - Impacting less than 4,000 square feet of isolated wetlands
 - No mitigation required
 - \$250 fee
 - Up to 30 days to determine qualification





Individual Permit Required

- FDEP
 - Impacting wetlands
 - Mitigation is required
 - \$420 fee
 - \$320 if using e-permitting
 - Up to 60 days to issue permit





Elimination & Reduction

- **Elimination** – removing all impacts to wetlands and surface waters.
- **Reduction** – reducing the acreage or severity of impacts to wetlands and surface waters.



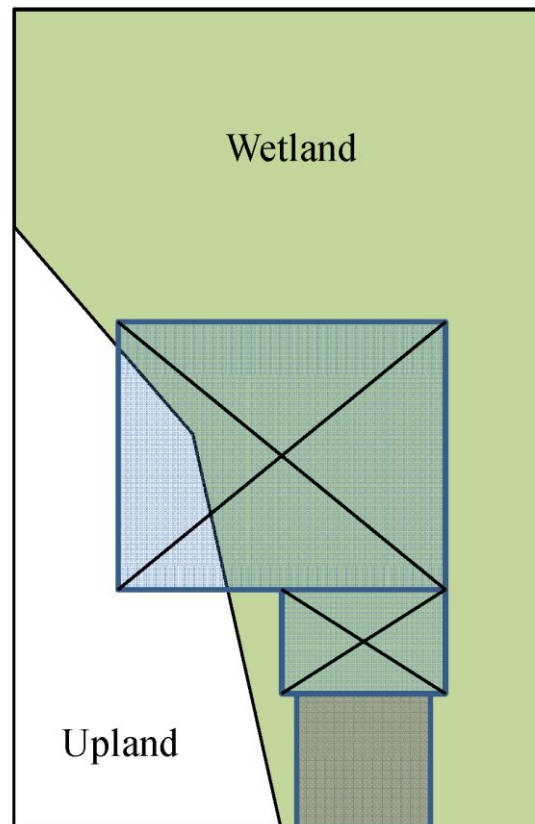
Ways to Eliminate and Reduce

- Locate as many activities in uplands
- Propose piling supported structures
- Use stem-wall foundation instead of fill slopes
- Build smaller structures
- Build multi-story structures
- Use sewer, not septic



Elimination and Reduction Utilized

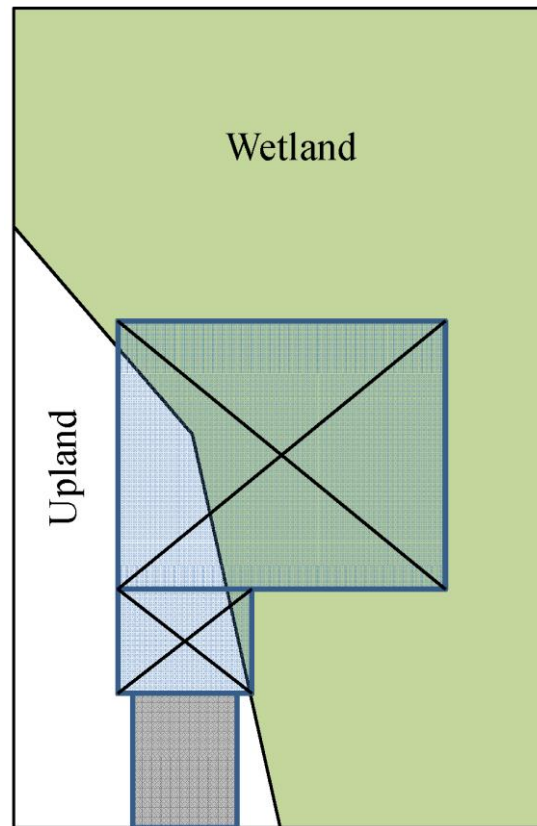
Original proposal: Requires an individual permit with mitigation to construct a single family home and driveway.





Elimination and Reduction Utilized

Final proposal: modified to reduce wetland impact.
Fill for house pad only. Reduced amount of mitigation required.





Mitigation

- Offsets the loss of wetland functions by improving existing wetlands within the area
 - Restores
 - Enhances
 - Preserves
 - Creates





Mitigation FAQ's

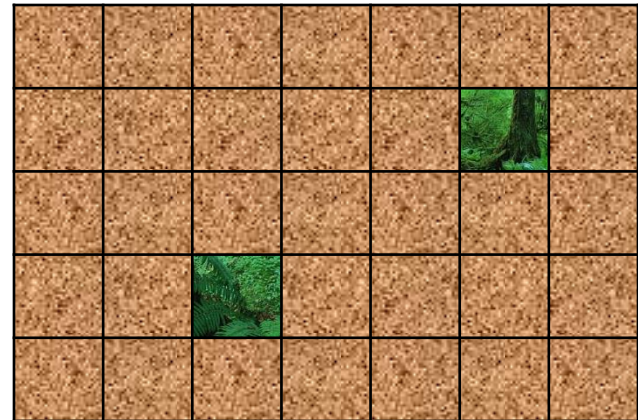
1. My project is small – why do I have to provide mitigation?
2. How do I know how much mitigation my project requires?
3. How does UMAM scoring work?
4. What kind of mitigation should I use?



Mitigation FAQ's

1. My project is small – why do I have to provide mitigation?

- Many small impacts → large cumulative impacts
- Florida lost approximately ½ of its wetlands pre-1970's.





Mitigation FAQ's

2. How do I know how much mitigation my project requires?

- Not all wetlands function equally
- Wetland functions are scored fairly
 - Uniform Mitigation Assessment Method (UMAM)
 - Rule 62-345, Florida Administrative Code

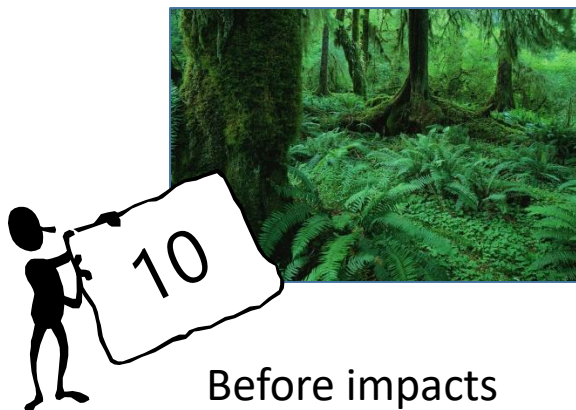




Mitigation FAQ's

3. How does UMAM scoring work?

- Impacts
 - Score before impacts
 - Score after impacts
 - After impacts – before impacts = functional loss/acre
 - Functional loss/acre x acres impacted = actual functional loss





Mitigation FAQ's

3. How does UMAM scoring work?

- Mitigation
 - Score before mitigation
 - Score after mitigation
 - After mitigation – before mitigation = functional gain/acre
 - Actual functional loss ÷ functional gain/acre = acres or credits of mitigation needed.





Mitigation FAQ's

4. What kind of mitigation should I use?

- “in-kind” and “like for like”
- Similar vegetation community
- Similar wetland functions
- **Replacement of functions**, not acreage



Replace this...



with this...



not this.



Mitigation options

- On-site mitigation
 - At the project location
 - Requires plans, monitoring and a conservation easement
- Off-site mitigation
 - Not at the project location
 - Within the same watershed as the project
 - Less than 5 acres of wetland impact can be mitigated outside the watershed.
 - Requires plans, monitoring and a conservation easement
- Mitigation bank
 - Purchase appropriate credits
 - Project must be within bank's service area (projects less than 1 acre of impacts may mitigate outside a bank's service area)



Mitigation Bank

- Private sector business
- Banker purchases a very large tract of land
 - Receives a mitigation bank permit
 - Creates, enhances, restores, and preserves wetlands on the land
 - Credits (functional gain points) are earned
 - Credits are sold to people who need them to make up for wetland functional loss



Mitigation Bank Locations

- **Little Pine Island**

- Mariner Properties Development, Inc.
- (239) 481-2011
- 13451 McGregor Blvd. Suite 31 Ft. Myers, FL 33919

- **Corkscrew**

- LZ Mitigation, LLC
- (239) 245-7457
- lynn@lzmitigation.com
- 4635 Little River Ln Fort Myers, Florida 33905

- **Panther Island**

- (239) 530-8044
- dduke@ecoresolve.com
- 814 S. Military Trail, Bldg 6 Deerfield Beach, FL 33442

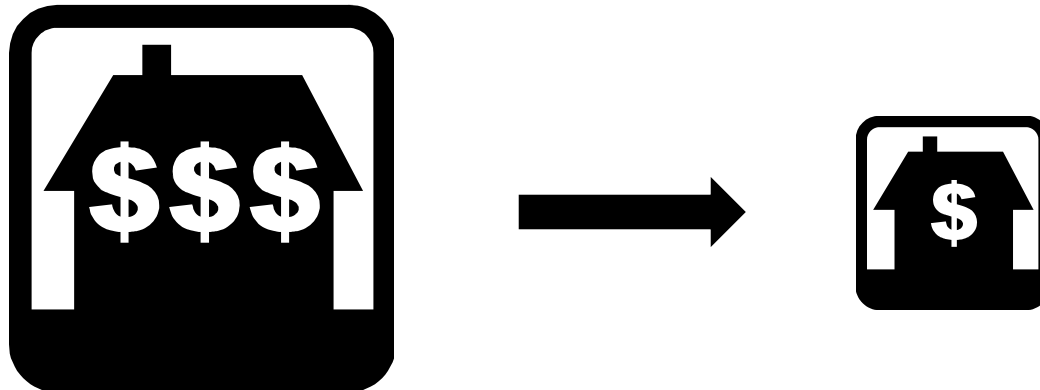
- **Big Cypress**

- (239) 415-6200
- lynn@lzmitigation.com
- 12800 University Dr Fort Myers, Florida 33907



Mitigation Can Be Expensive

- Elimination and Reduction methods should be used.
- Less impact → less mitigation → less expensive





Permitting Summary

- Multiple permits are required to build in wetlands
- Mangroves are a type of wetland habitat; no different than a cypress dome or a hydric pine flatwood
- State permitting regulations use an elimination and reduction of impacts analysis. Remaining impacts are offset with mitigation.
- A separate permit pursuant to the Mangrove Trimming and Preservation Act is not required when work performed under state's wetland permitting authority



Resources

- PASS – Permitting Application Subscription Service
pass.dep.state.fl.us
- Map Direct:
<http://ca.dep.state.fl.us/mapdirect/?focus=erp>
- ERP Online Help:
<http://www.dep.state.fl.us/water/wetlands/erhelp/index.htm>
- Mangrove Trimming Guidelines for Homeowners:
<http://www.dep.state.fl.us/water/wetlands/mangroves/docs/Mangrove-Homeowner-Guide-sm.pdf>



Permitting Contacts

Permitting Program Administrator

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Administrative Support, General Questions, Wetland Determinations, Documents/Public Records

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Permitting

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CAP - Compliance Assurance Program

CAP Purpose

- Provide Compliance Assistance to the regulated community (our customers)
- Provide Outreach or informal training
 - to increase compliance rates
 - to increase overall environmental stewardship



Our focus is to be proactive!

Focus our efforts to prevent environmental problems from occurring, rather than only toward addressing a violation once it has occurred (being reactive)



CAP - Compliance Assurance Program

CAP Goals

- Achieve environmental compliance
 - Preferably without the need for formal enforcement
- Clearly explain regulatory requirements and the agency's expectations
- Provide technical assistance
 - Pre-construction meetings
 - On-site compliance inspections
 - Modifications to address changes in permitted design or any site related construction complications



CAP - Compliance Assurance Program

CAP Technical Assistance

- Available to answer questions about permit requirements
- Participate in professional consultation with applicants, governments, professional engineers, consultants and other agencies
- Make recommendations regarding permitting and/or compliance
- Work cooperatively to resolve any issues of non-compliance



CAP - Compliance Assurance Program

CAP Goals

- Seek feedback from our customers
- Help correct any industry recognized non-compliance issues
- Promote a positive business relationship
- Identify opportunities for Improvement
 - interpretation/modification of permit conditions or rules
 - maintain/enhance environmental protection
 - reduce potential for regulatory burden



CAP - Compliance Assurance Program

CAP Staff Contacts

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Your questions/Our answers

Some of the questions discussed at the last meeting:

- What is scope of mitigation (slides 19-28)
- What is limit of removal with mitigation?
- How do we protect Captiva and its mangroves...specific language and interface with DEP other regulators?
- Scope of net loss in regs... island, watershed, county? (slides 6, 25-26)
- Notification for permits... time frame, responsiveness? (slides 31, 12-14)
- Can we get a special designation to protect fringe?
- Describe permits, field permit process, what's allowed (slides 11-14)