

Seminole Tribe of Florida

Tribal Update



LLW

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LONGMAN
WALKER**

Seminole Tribe of Florida



Seminole Tribe of Florida



Seminole Hard Rock Hotel & Casino, Hollywood, FL



Seminole Tribe of Florida

- Federally recognized by Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 476)
- Recognized by the State of Florida under Chapter 285 of the Florida Statutes



Seminole Tribe of Florida

- In 1953, the United States Congress passed legislation terminating federal tribal programs.
- The Seminole Tribe successfully argued against termination but immediately moved forward with:
 - Tribal Constitution;
 - Obtaining self-governance through a tribal council; and
 - Creating the Seminole Tribe of Florida, Inc. to oversee the tribal businesses.



Marcellus Osceola, Jr.
Chairman



Mitchell Cypress
Vice Chairman



Mariann Billie
Big Cypress
Councilwoman



Larry Howard
Brighton Councilman



Chris Osceola
Hollywood
Councilman



Seminole Tribe of Florida

- Seminole Tribe has 7 Reservations that are home to approximately 3,600 out of 4,200 total tribal members
- 90,700+ acres



Land and Water Disputes

- 1980s Disputes:
 - The extent and nature of Seminole water rights and their relationship to neighboring water users.
 - Land claims.
- Jurisdictions involved:
 - Seminole Tribe inherent jurisdiction over water and environment on the reservations and trust lands;
 - State jurisdiction over state waters and environmental matters in the state; and
 - Federal government jurisdiction over waters of the U.S. and other federal environmental matters.



The Signing of the Compact

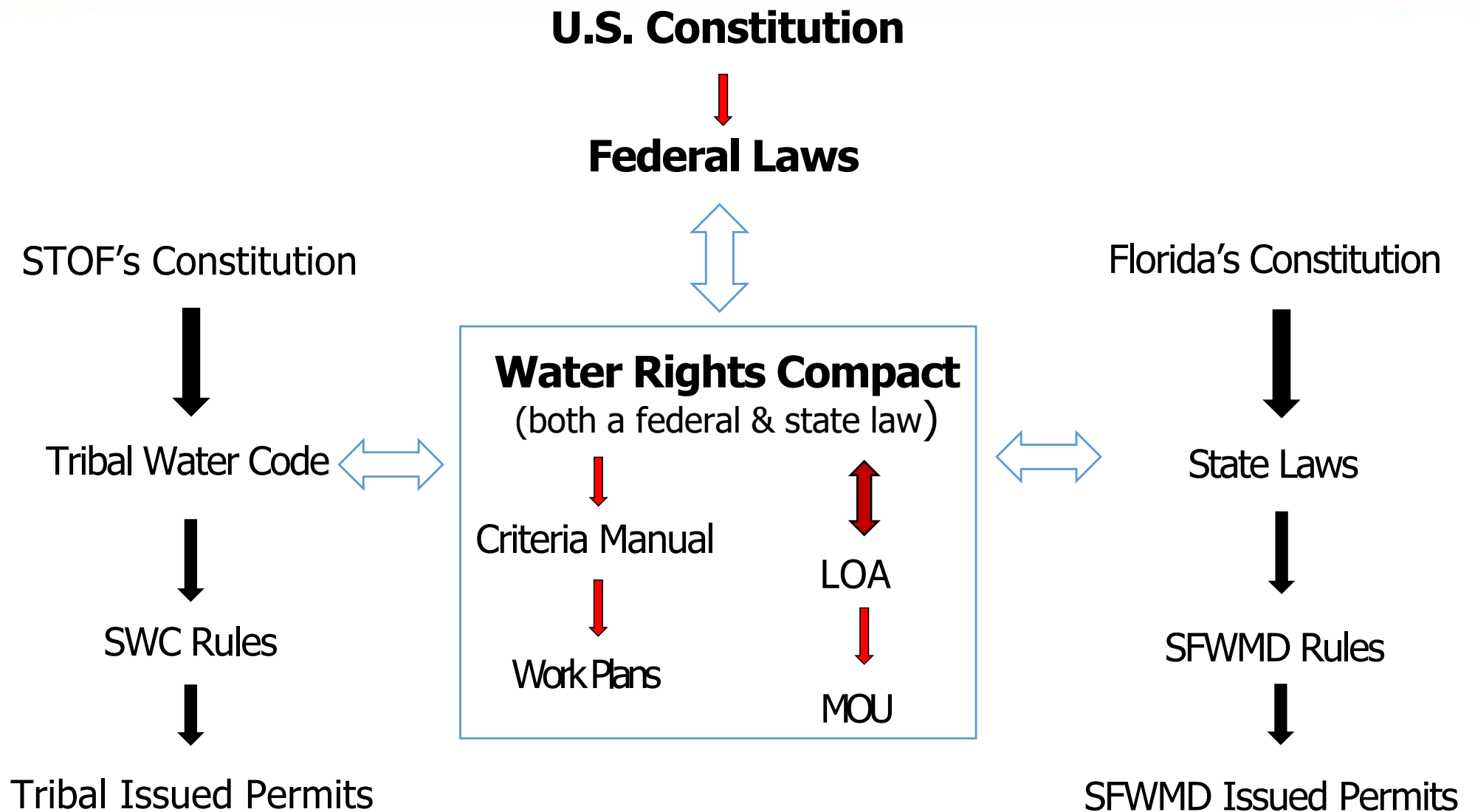


The Water Rights Compact

- 2nd tribal water rights settlement in the country - only water rights settlement east of the Mississippi.
- The Water Rights Compact, signed in 1987, has the full force and effect of federal and state law.
- The Compact defines the rights and obligations of the Seminole Tribe pertaining to the water and the environment, approved concurrent with settlement of the Tribe's pending land claims.
- There has been no litigation between the Tribe and the District since the Compact's ratification.



The Water Rights Compact



Compact – Goals and Implementation

- Preserved Seminole sovereignty.
- Protected the Seminole's development rights.
- Assured the District that the Tribe's management of water would be consistent with the State system.
- Water rights entitlements established for the Big Cypress and Brighton Reservations provide a proportionate share of the available Basin's surface water while, allowing the SFWMD to accommodate the pre-existing permitted water uses in these basins.
- Tribal water rights are perfected through the Compact Work Plans.



Federal Trust Responsibility

- Borne out of the Founding Father's Recognition in Constitution that Indian Tribes were separate, distinct entities different than states, were more akin to a foreign nation, and that only Congress can interact with the Indians.
- Once a patriarchal ward/guardian dynamic, the relationship between the Federal Government and Tribes has evolved into Federal support and encouragement of Tribal Self-Determination and prosperity.
- In recent history, the U.S. Federal Government has tried to add meaning to Federal Trust Responsibility through Consultation.



Federal Trust Responsibility

- The United Nations Declaration on the Rights of Indigenous Peoples, adopted on September 13, 2007, places importance on the need for tribal collaboration.
- Under the Biden Administration, the largest number of Indigenous people to office. This reflects the administration's attempt to consider Tribal voices more than ever.
- In 2021, Deb Haaland was confirmed as the first Native American Cabinet Secretary in U.S. history.



Federal Trust Responsibility

- On November 15, 2021, the Executive Office of Science and Technology Policy Council on Environmental Quality issued a Memorandum on Indigenous Traditional Ecological Knowledge (ITEK) and Federal Decision Making.
 - Acknowledges ITEK is owned by Indigenous people.
- On March 15, 2022, the United States Army Corps of Engineers issued a Memorandum on Implementation of Environmental Justice and the Justice40 Initiative.
 - Reaffirms commitment to the implementation of Environmental Justice.

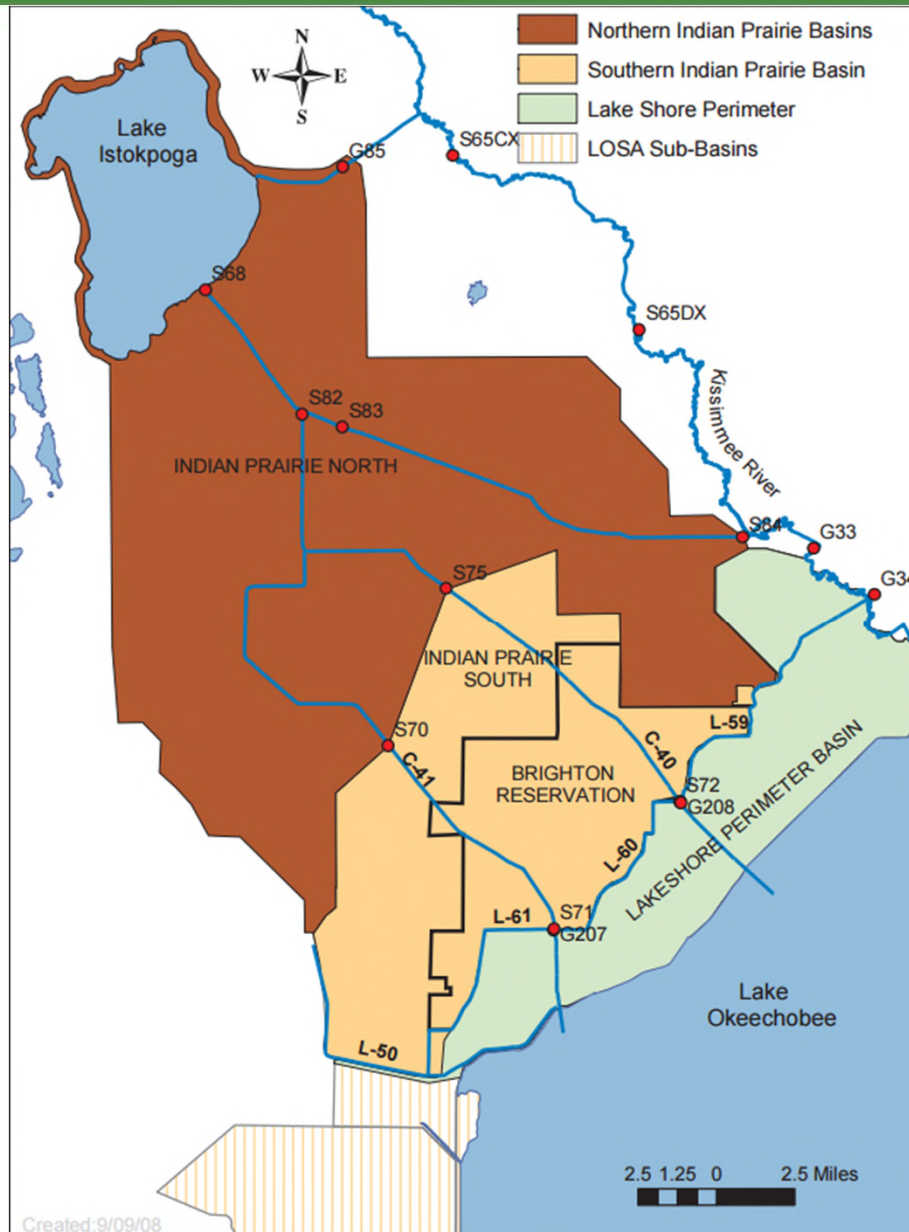


Federal Trust Responsibility

- The Supreme Court has recognized “the distinctive obligation of trust incumbent upon the Government” in its dealings with Native American Tribes. *E.g. Seminole Nation v. U.S.*, 316 U.S. 286 (1942)
- The Federal government “has charged itself with moral obligations of the highest responsibility and trust” in carrying out its obligations to Tribes. *Id.*
- “The [Navajo] Nation, in pointing to its reserved water rights, has identified specific treaty, statutory, and regulatory provisions that impose fiduciary obligations on Federal Appellees.” *Navajo Nation v. U.S. DOI*, 996 F.3d 623 (9th Cir 2021)



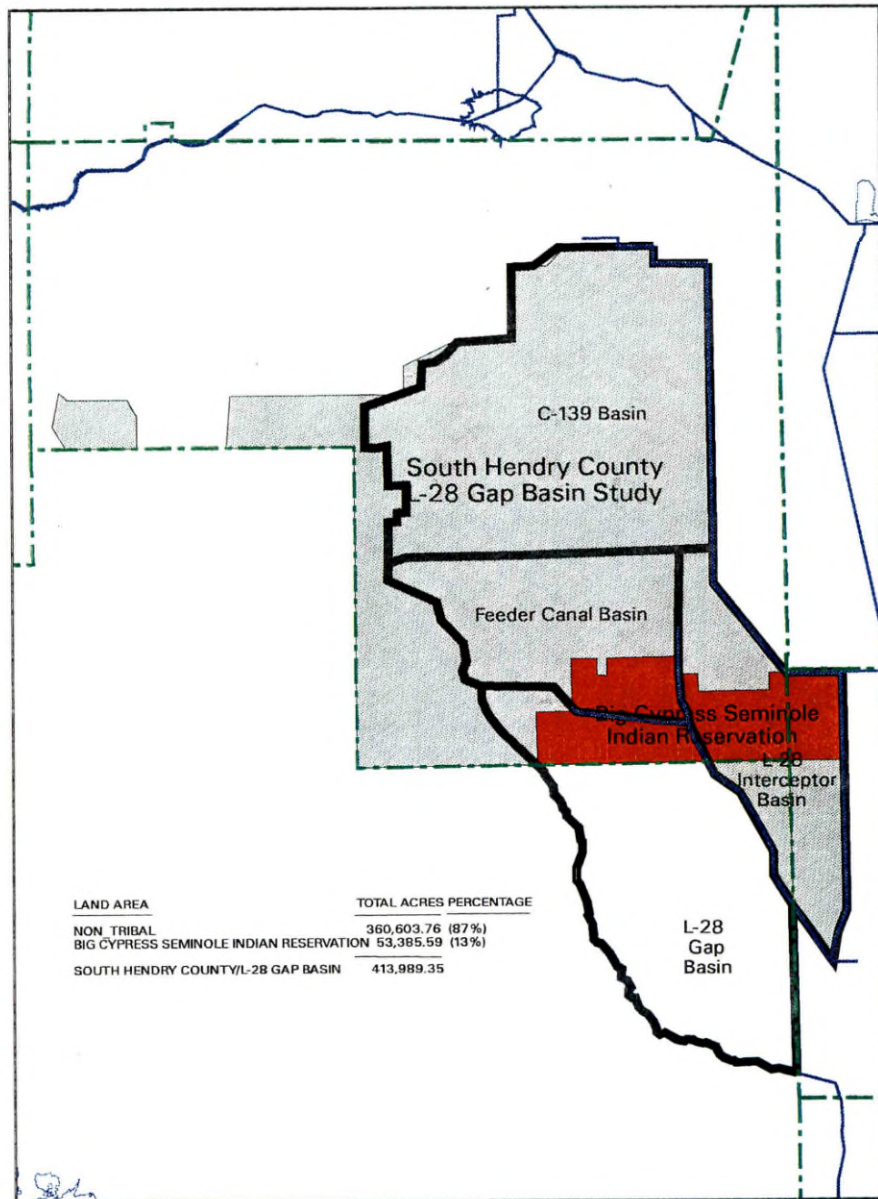
Surface Water Rights Entitlements, Brighton Reservation



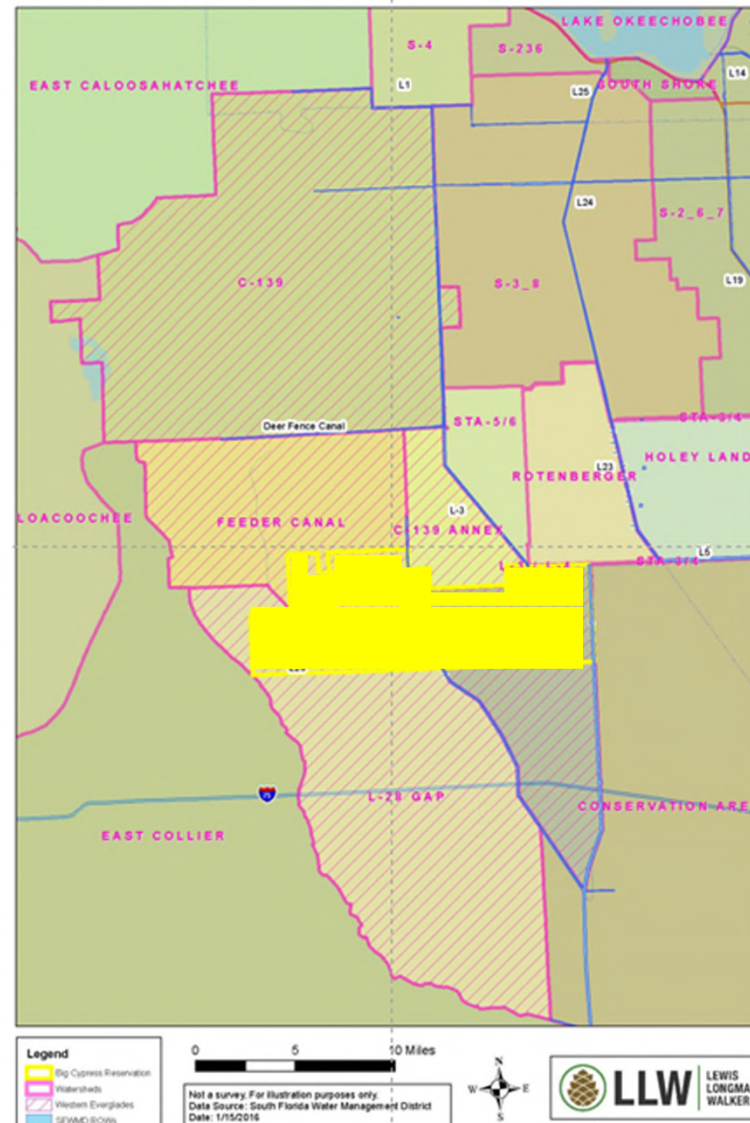
http://www.sfwmd.gov/portal/page/portal/common/pdf/splash/water_shortage_map_indian_prairie.pdf



Surface Water Rights Entitlements, Big Cypress Reservation



Watershed Basins Surrounding Big Cypress

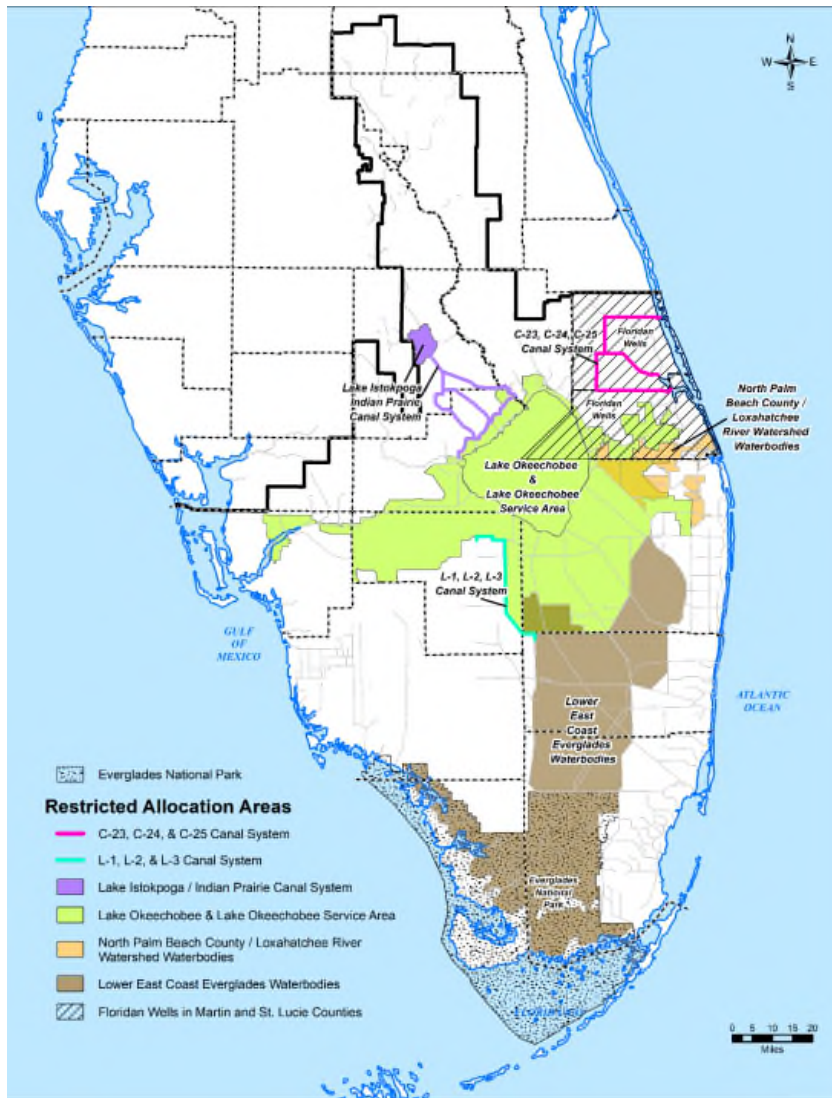


External Threats and Opportunities

- Lake Okeechobee Watershed Restoration Project (LOWRP)
- Lake Okeechobee System Operating Manual (LOSOM)
- BMAP, Dispersed Water Management Projects (DWMs), and other water storage projects
- Everglades Agricultural Area (EAA) Reservoir
- Western Everglades Restoration Project (WERP)



Consequences of Lake Management on STOF Water Rights



- LORS 08 lowered the lake stage, limiting water supply.
- Restricted Allocation Areas imposed use restrictions around the lake.



LOWRP Revised Recommended Plan



LOSOM Tribal Considerations

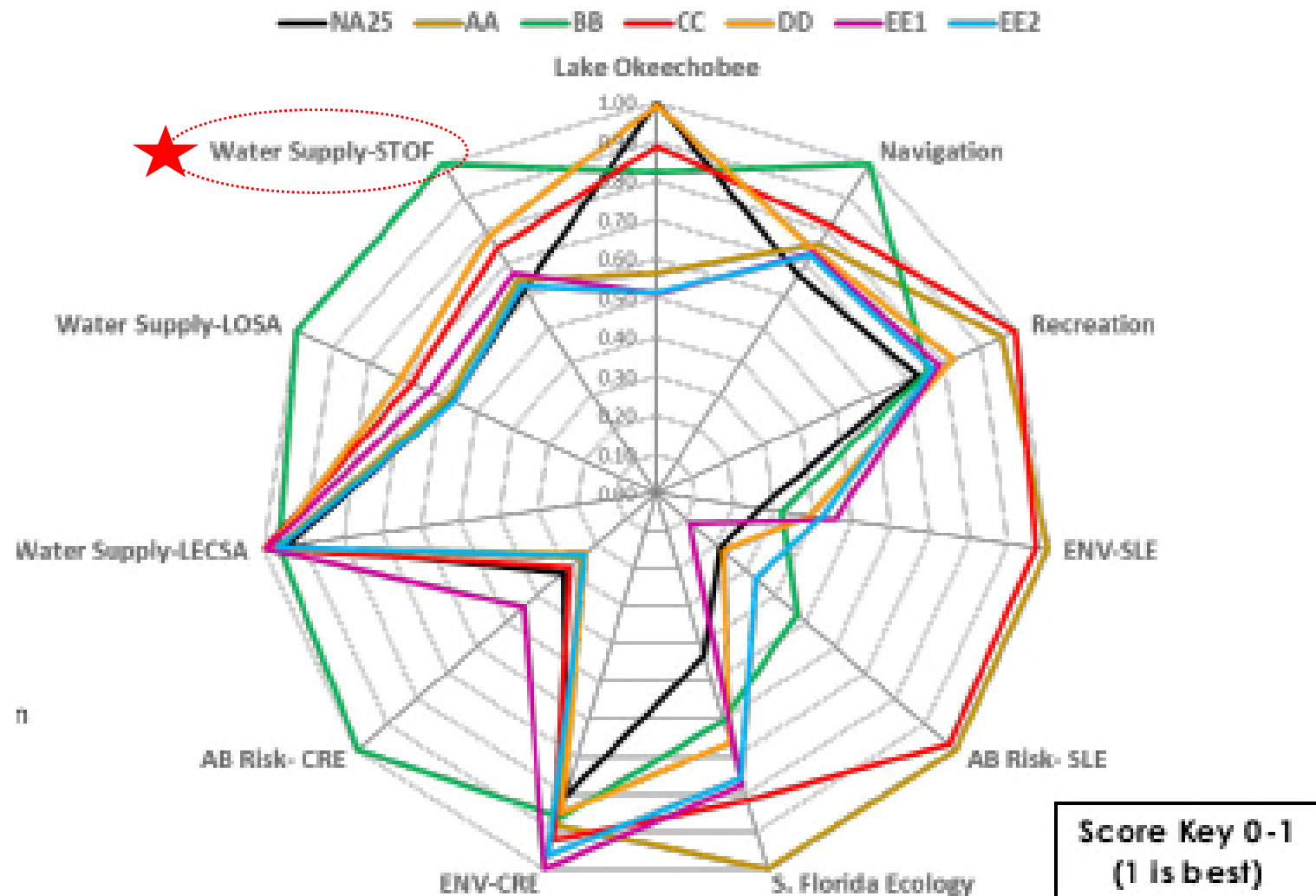


- Tribal water rights – primary concern, fundamental to Tribal sovereignty
 - No new infrastructure will be authorized by LOSOM
- Historic and Cultural Resources
- Lake health and ecology
- Everglades health and ecology
- Coastal Estuaries – don't want to push problems/issues with system onto neighbors, want holistic solutions
- The Tribe has used the Federal Trust Responsibility obligations of the Corps to protect Tribal water rights.



Lake Okeechobee System Operating Manual

MCDA Performance Comparison: Iteration 2 Alternatives

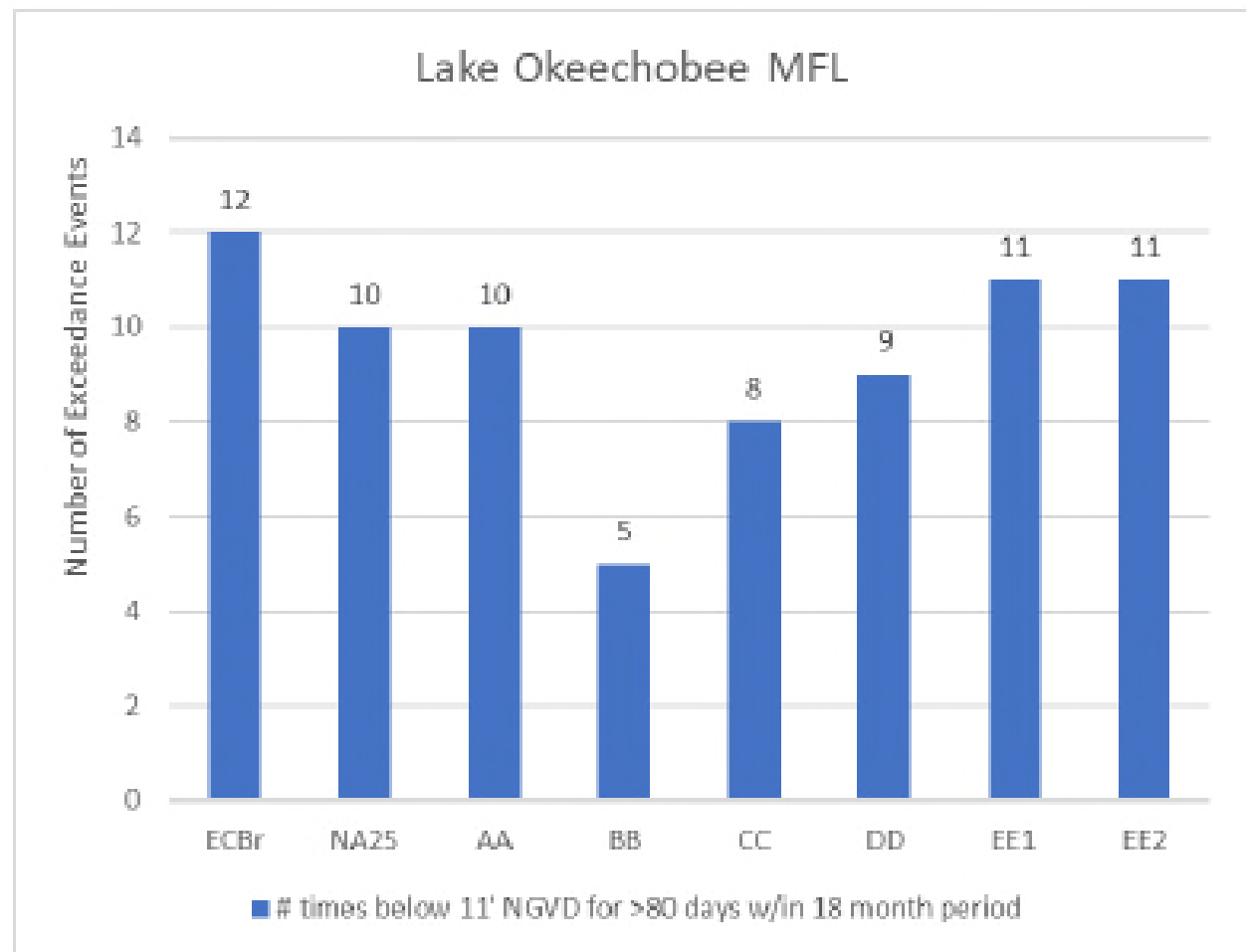


Lake Okeechobee System Operating Manual

Lake O MFL

Run	# times below 11' NGVD for >80 days w/in 18 month period	Avg Duration of Events	Avg Stage
ECBr	12	207	10.26
NA25	10	210	10.14
AA	10	220	10.29
BB	5	281	10.39
CC	8	228	10.20
DD	9	217	10.26
EE1	11	204	10.31
EE2	11	198	10.30

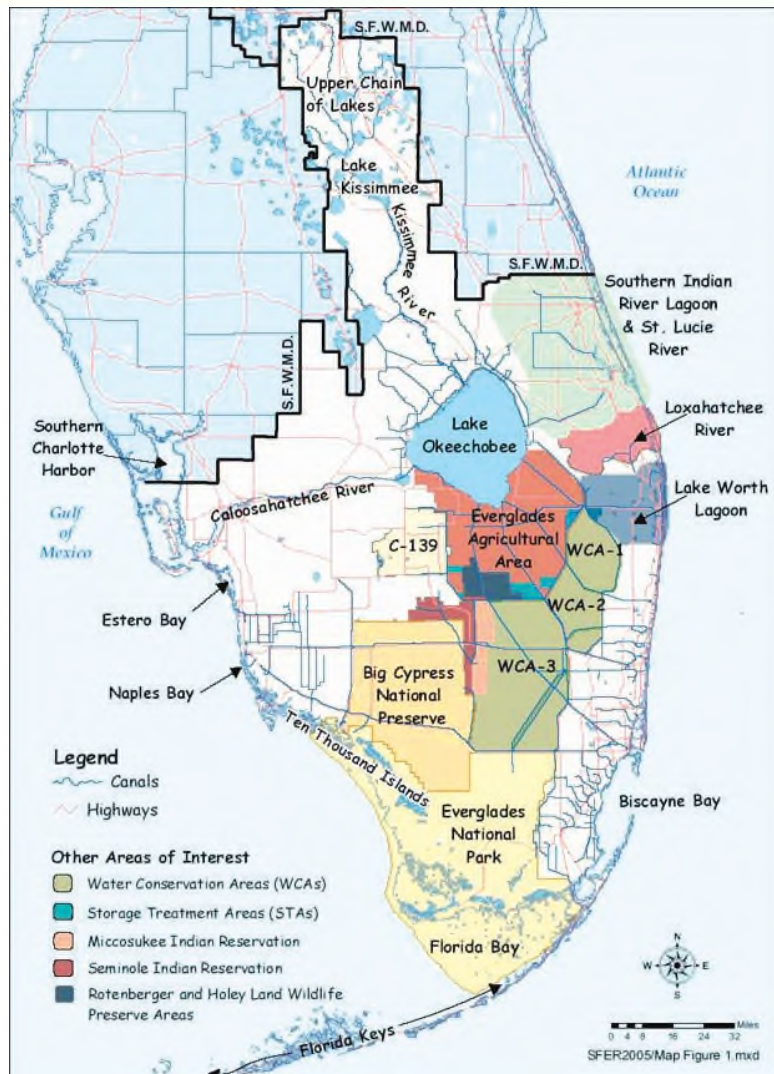
Run	Exceedance*	Violation**
ECBr	12	8
NA25	10	6
AA	10	6
BB	5	1
CC	8	4
DD	9	5
EE1	11	8
EE2	11	7



* An Exceedance occurs when Lake O water levels are below 11' NGVD for more than 80 consecutive or non-consecutive days in an 18-month period.

** A Violation occurs when an Exceedance occurs more than once every six years.

Basin Management Action Plans & Dispersed Water Management Projects

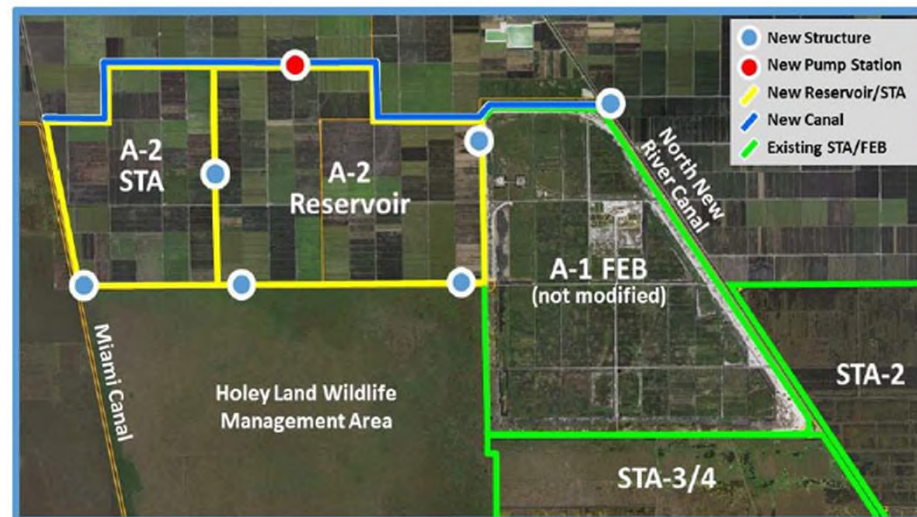


- Storage projects change timing and quantity of flows to Lake Okeechobee
- Seminole Tribe's water rights
- Water shortage impacts
- Species dispersal impacts
- No cumulative impact analysis has been done
- Historic and Cultural Resource impacts



Everglades Agricultural Area (EAA) Reservoir Project

- The purpose of the EAA Reservoir Project is to reduce harmful discharges to the Northern Estuaries and move clean water south to the Everglades.
- Tribal Concerns:
 - The Seminole Tribe finds the intentional and unnatural inundation of sites containing burial resources culturally offensive and unacceptable.
 - The identification of human remains triggers the Burial Resources Agreement (ex: **Cane Field Site**).



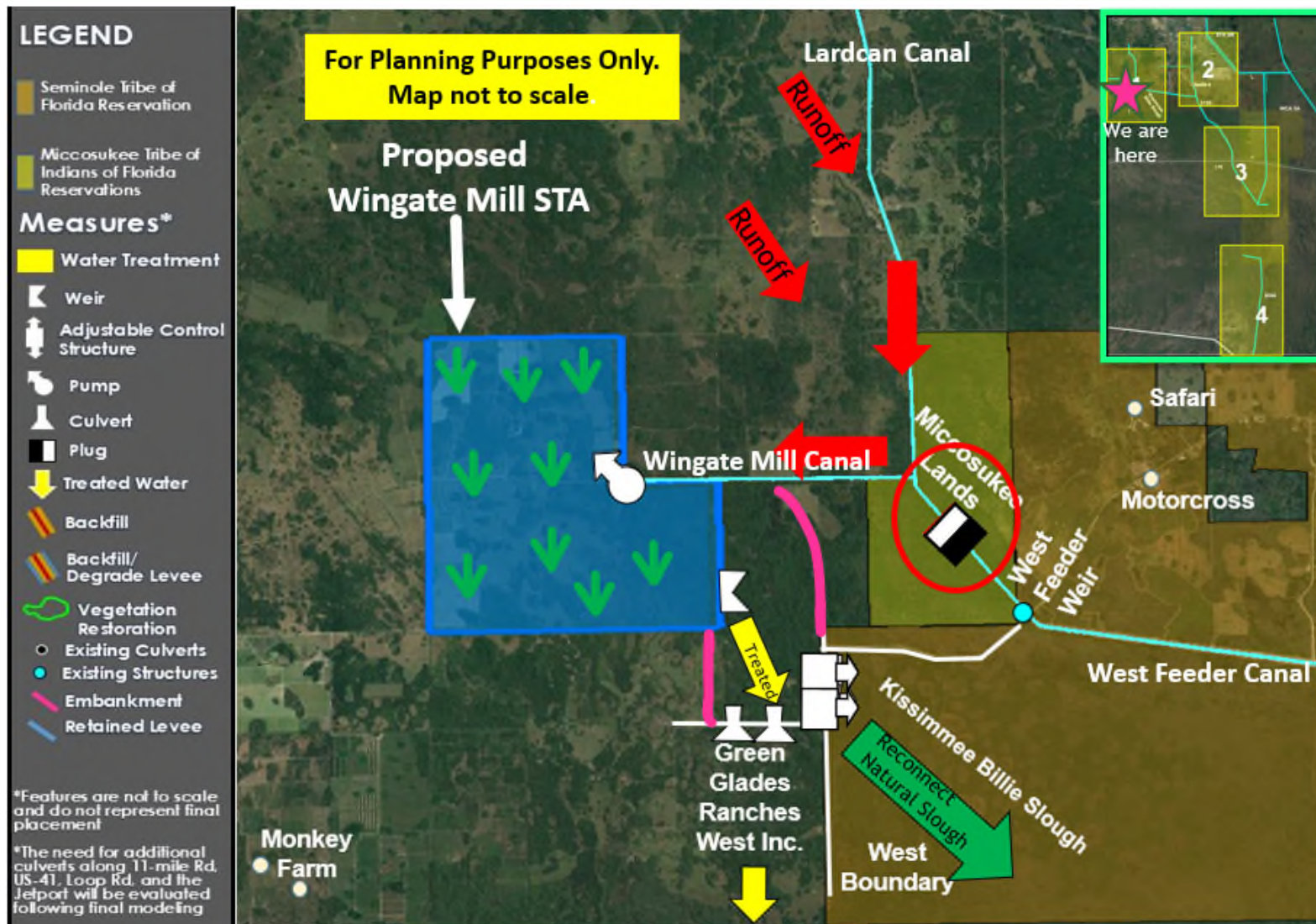
Western Everglades Restoration Project

Western Everglades Restoration Project (WERP) Origins:

- The Seminole Tribe filed a Minority Opinion opposing the Central Everglades Planning Project (CEPP) because it did not consider the needs of the Seminole Tribe and the western basins of the Everglades.
- As a result, DOI using the Everglades Restoration Task Force, launched a planning process that resulted in WERP.
- Derived from components of CERP Yellow Book intended to address hydrological issues caused by C&SF Project plaguing Big Cypress Reservation.



Map of WERP Proposed Features West of Big Cypress Reservation



Map of WERP Proposed Features North of Big Cypress Reservation



Western Everglades Restoration Project Issues

- WERP is only project in foreseeable future that addresses Big Cypress Reservation hydrologic issues.
- The Tribal community has concerns related to WERP planning and implementation:
 - Will hydrologic changes in and around Reservation cause unintended consequences?
 - Will restoration water cause additional harm to the Native Area?
 - Will the Seminole Tribe have control over restoration flows entering the Native Area?
 - Will the Seminole Tribe have to share proprietary or other sensitive Tribal knowledge with the USACE or other outsiders to receive benefits from WERP?
- Other, related issues:
 - Cost of monitoring if not part of Adaptive Management Plan?
 - If no WERP, then what?



Summary

HOMELAND SECURITY



"Fighting Terrorism Since 1492"

- Federal Agencies active in Florida have a multitude of projects, many of which could impact important Tribal resources and sovereignty.
- Maintaining Seminole Tribe's sovereign interests, land, and culture is incredibly resource intensive.
- Disconnects on the requirements of the Federal Trust Responsibility can create additional hurdles for Seminole Tribe.



Thank you!



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