

# **REFERENCES AND DESIGN AIDS FOR THE ENVIRONMENTAL RESOURCE PERMIT APPLICANT'S HANDBOOK VOLUME I**

**These References and Design Aids are not incorporated by reference in Chapter 62-330, F.A.C., and therefore do not constitute rules of the Agencies. They are intended solely to provide applicants with useful tools, example calculations, and design suggestions that may assist in the design of a project under Chapter 62-330, F.A.C.**

**FOR USE STATEWIDE BY AND FOR THE:**

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND  
NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**



**September 19, 2013**

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# **1 — Grandfathering & Mitigation Ratio Historical Guidance**

## **1.1 Introduction**

Prior to the adoption of the Uniform Mitigation Assessment Method (UMAM), Chapter 62-345, on February 2, 2004, the amount of mitigation that was appropriate to offset otherwise unpermittable adverse impacts to wetlands and other surface waters was determined using ratios. The ratios of applicable mitigation varied depending on whether the mitigation was in the form of creation, restoration, enhancement, or preservation.

Those mitigation ratios, instead of UMAM, continue to apply to projects with a mitigation component that was permitted, or that qualifies for permitting, under Sections 373.414 (11), (12)(a), (13), (14), (15), or (16), F.S., or Section 373.4145(6), F.S., or when credits are purchased from certain mitigation banks that were designed and permitted using mitigation ratios. Such projects would have been permitted by the Department or a WMD in a wetland resource permit under Chapter 62-312, F.A.C., after adoption of the Warren S. Henderson Protection Act in 1984.

The guidance on the appropriate mitigation ratios was previously contained in the Applicant's Handbooks and Basis of Review used by each water management district (WMD) and the Department prior to the adoption of the Statewide Environmental Resource Permit Rule (Chapter 62-330, F.A.C., effective [effective date]), except within the Northwest Florida Water Management District (NFWFMD); within the NFWFMD, this guidance was in the form of guidance memos issued by the Secretary of the Department.

To assist users who may have a project that qualifies for the grandfathering described above, the text of that mitigation ratio guidance is reproduced below, except that the numbering of the sections below corresponds to the numbering of the mitigation ratio sections contained in the following Applicant's Handbooks (AHs) and Basis of Review (BOR) of the WMDs, except that the Chapter numbers "12," "3," and "4," below, have been replaced by I (for Design Aid for Volume I). However, because section I.3.2.1(a) contains text that also references other sections of the applicable AH or BOR, the "X" in that section refers to the "12," "3," or "4" applicable to the District in which the project is located.

12.3.2 through 12.3.2.3 — Suwannee River Water Management District ERP  
Applicant's Handbook

12.3.2.1 through 12.3.2.3 — St. Johns River Water Management District  
Applicant's Handbook: Management and Storage of Surface Waters

3.3.2 through 3.3.2.3 — Southwest Florida Water Management District Basis of  
Review for Environmental Resource Permit Applications

4.3.2 through 4.3.2.3 — South Florida Water Management District Basis of  
Review for Environmental Resource Permit Applications

## **1.2 The "Grandfathering Provisions"**

The text of Sections 373.414 (11), (12)(a), (13), (14), (15), or (16), F.S., or Section 373.4145(6), F.S., known as the "grandfathering provisions," under Part IV of Chapter 373, F.S., are reproduced below: Projects that qualify for these grandfathering provisions may still be subject to the use of mitigation ratios, unless the project is subject to a major

modification, in which case a new permit under Part IV of Chapter 373, F.S., would be required and would be subject to the use of UMAM instead of mitigation ratios.

***From Section 373.414, F.S. (2012), applicable statewide except within the NFWFMD:***

(11)(a) In addition to the statutory exemptions applicable to this part, dredging and filling permitted under rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or exempted from regulation under such rules, shall be exempt from the rules adopted pursuant to subsection (9) if the dredging and filling activity did not require a permit under rules adopted pursuant to this part prior to the effective date of the rules adopted pursuant to subsection (9). The exemption from the rules adopted pursuant to subsection (9) shall extend to:

1. The activities approved by said chapter 403 permit for the term of the permit; or

2. Dredging and filling exempted from regulation under rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, which is commenced prior to the effective date of the rules adopted pursuant to subsection (9), is completed within 5 years after the effective date of such rules, and regarding which, at all times during construction, the terms of the dredge and fill exemption continue to be met.

(b) This exemption shall also apply to any modification of such permit which does not constitute a substantial modification. For the purposes of this paragraph, a substantial modification is one which is reasonably expected to lead to substantially different environmental impacts. This exemption shall also apply to a modification which lessens the environmental impact. A modification qualifying for this exemption shall be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, in existence prior to the effective date of the rules adopted under subsection (9).

(12)(a) Activities approved in a conceptual, general, or individual permit issued pursuant to rules adopted pursuant to this part and which were either permitted under rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or exempt from regulation under such rules, all prior to the effective date of rules adopted pursuant to subsection (9), shall be exempt from the rules adopted pursuant to subsection (9). This exemption shall be for the plans, terms, and conditions approved in the permit issued under rules adopted pursuant to this part or in any permit issued under rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and shall be valid for the term of such permits. This exemption shall also apply to any modification of the plans, terms, and conditions of the permit, including new activities, within the geographical area to which the permit issued under rules adopted pursuant to this part applies; however, this exemption shall not apply to a modification that would extend the permitted time limit for construction beyond 2 additional years, or to any modification which is reasonably expected to lead to substantially different water resource impacts. This exemption shall also apply to any modification which lessens the impact to water resources. A modification of

the permit qualifying for this exemption shall be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, as applicable, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such modifications reviewed under the rules adopted under this part, as amended in accordance with subsection (9).

- (b) Surface water and wetland delineations identified and approved by the permit issued under rules adopted pursuant to this part prior to the effective date of rules adopted pursuant to subsection (9) shall remain valid until expiration of such permit, notwithstanding the methodology ratified in s. 373.4211. For purposes of this section, the term “identified and approved” means:
  - 1. The delineation was field-verified by the permitting agency and such verification was surveyed as part of the application review process for the permit; or
  - 2. The delineation was field-verified by the permitting agency and approved by the permit.

Where surface water and wetland delineations were not identified and approved by the permit issued under rules adopted pursuant to this part, delineations within the geographical area to which such permit applies shall be determined pursuant to the rules applicable at the time the permit was issued, notwithstanding the methodology ratified in s. 373.4211. This paragraph shall also apply to any modification of the permit issued under rules adopted pursuant to this part within the geographical area to which the permit applies.

- (c) Within the boundaries of a jurisdictional declaratory statement issued under s. 403.914, 1984 Supplement to the Florida Statutes 1983, as amended, or pursuant to rules adopted thereunder, in which activities have been permitted as described in paragraph (a), the delineation of the landward extent of waters of the state for the purposes of regulation under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, as such rules existed prior to the effective date of the rules adopted pursuant to subsection (9), shall remain valid for the duration of the permit issued pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and shall be used in the review of any modification of such permit.
- (13) Any declaratory statement issued by the department under s. 403.914, 1984 Supplement to the Florida Statutes 1983, as amended, or pursuant to rules adopted thereunder, or by a water management district under s. 373.421, in response to a petition filed on or before June 1, 1994, shall continue to be valid for the duration of such declaratory statement. Any such petition pending on June 1, 1994, shall be exempt from the methodology ratified in s. 373.4211, but the rules of the department or the relevant water management district, as applicable, in effect prior to the effective date of s. 373.4211, shall apply. Until May 1, 1998, activities within the boundaries of an area subject to a petition pending on June 1, 1994, and prior to final agency action on such petition, shall be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in

accordance with subsection (9). In the event that a jurisdictional declaratory statement pursuant to the vegetative index in effect prior to the effective date of chapter 84-79, Laws of Florida, has been obtained and is valid prior to the effective date of the rules adopted under subsection (9) or July 1, 1994, whichever is later, and the affected lands are part of a project for which a master development order has been issued pursuant to s. 380.06(21), the declaratory statement shall remain valid for the duration of the buildout period of the project. Any jurisdictional determination validated by the department pursuant to rule 17-301.400(8), Florida Administrative Code, as it existed in rule 17-4.022, Florida Administrative Code, on April 1, 1985, shall remain in effect for a period of 5 years following the effective date of this act if proof of such validation is submitted to the department prior to January 1, 1995. In the event that a jurisdictional determination has been revalidated by the department pursuant to this subsection and the affected lands are part of a project for which a development order has been issued pursuant to s. 380.06(15), a final development order to which s. 163.3167(5) applies has been issued, or a vested rights determination has been issued pursuant to s. 380.06(20), the jurisdictional determination shall remain valid until the completion of the project, provided proof of such validation and documentation establishing that the project meets the requirements of this sentence are submitted to the department prior to January 1, 1995. Activities proposed within the boundaries of a valid declaratory statement issued pursuant to a petition submitted to either the department or the relevant water management district on or before June 1, 1994, or a revalidated jurisdictional determination, prior to its expiration shall continue thereafter to be exempt from the methodology ratified in s. 373.4211 and to be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9).

- (14) An application under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or this part for dredging and filling or other activity, which is pending on June 15, 1994, or which is submitted and complete prior to the effective date of rules adopted pursuant to subsection (9) shall be:
  - (a) Acted upon by the agency which is responsible for review of the application under the operating agreement adopted pursuant to s. 373.046(4);
  - (b) Reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted pursuant to subsection (9), unless the applicant elects to have such activities reviewed under the rules of this part, as amended in accordance with subsection (9); and
  - (c) Exempt from the methodology ratified in s. 373.4211, but the rules of the department and water management districts to delineate surface waters and wetlands in effect prior to the effective date of s. 373.4211 shall

apply, unless the applicant elects to have such ratified methodology apply.

- (15) Activities associated with mining operations as defined by and subject to ss. 378.201-378.212 and 378.701-378.703 and included in a conceptual reclamation plan or modification application submitted prior to July 1, 1996, shall continue to be reviewed under the rules of the department adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, the rules of the water management districts under this part, and interagency agreements, in effect on January 1, 1993. Such activities shall be exempt from rules adopted pursuant to subsection (9) and the statewide methodology ratified pursuant to s. 373.4211. As of January 1, 1994, such activities may be issued permits authorizing construction for the life of the mine. Lands added to a conceptual reclamation plan subject to this subsection through a modification submitted after July 1, 1996, which are contiguous to the conceptual reclamation plan area shall be exempt from rules adopted under subsection (9), except that the total acreage of the conceptual reclamation plan may not be increased through such modification and the cumulative acreage added may not exceed 3 percent of the conceptual reclamation plan area. Lands that have been mined or disturbed by mining activities, lands subject to a conservation easement under which the grantee is a state or federal regulatory agency, and lands otherwise preserved as part of a permitting review may not be removed from the conceptual reclamation land area under this subsection.
- (16) Until October 1, 2000, regulation under rules adopted pursuant to this part of any sand, limerock, or limestone mining activity which is located in Township 52 South, Range 39 East, sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36; in Township 52 South, Range 40 East, sections 6, 7, 8, 18, and 19; in Township 53 South, Range 39 East, sections 1, 2, 13, 21, 22, 23, 24, 25, 26, 33, 34, 35, and 36; and in Township 54 South, Range 38 East, sections 24, and 25, and 36, shall not include the rules adopted pursuant to subsection (9). In addition, until October 1, 2000, such activities shall continue to be regulated under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, as such rules existed prior to the effective date of the rules adopted pursuant to subsection (9) and such dredge and fill jurisdiction shall be that which existed prior to January 24, 1984. In addition, any such sand, limerock, or limestone mining activity shall be approved by Miami-Dade County and the United States Army Corps of Engineers. This section shall only apply to mining activities which are continuous and carried out on land contiguous to mining operations that were in existence on or before October 1, 1984.

***From Section 373.4145, F.S. (2012), applicable only within the NFWFMD:***

- (6) The following activities shall continue to be governed by the provisions of s. 373.4145, Florida Statutes 1994:
- (a) The operation and routine custodial maintenance of activities legally in existence before the effective date of the rules adopted under subsection (1), as long as the terms and conditions of the permit, exemption, or other authorization for such activities continue to be met.

- (b) The activities approved in a permit issued pursuant to s. 373.4145, Florida Statutes 1994, and the review of activities proposed in applications received and completed before the effective date of the rules adopted under subsection (1), as applicable. This paragraph shall also apply to any modification of the plans, terms, and conditions of a permit issued pursuant to s. 373.4145, Florida Statutes 1994, that lessens the environmental impact, except that any such modification shall not extend the time limit for construction beyond 2 additional years.

This subsection shall not apply to any activity that is altered, modified, expanded, abandoned, or removed after adoption of the applicable rules under subsection (1).

***[Section 373.4145, Florida Statutes 1994, provides the following]:***

373.4145 Interim part IV permitting program for the Northwest Florida Water Management District.—

(1) Within the geographical jurisdiction of the Northwest Florida Water Management District, the permitting authority of the department under this part shall consist solely of the following, notwithstanding the rule adoption deadline in s. 373.414(9):

(a) Rule 17-25, Florida Administrative Code, shall remain in full force and effect, and shall be implemented by the department. Notwithstanding the provisions of this section, chapter 17-25, Florida Administrative Code, may be amended by the department as necessary to comply with any requirements of state or federal laws or regulations, or any condition imposed by a federal program, or as a requirement for receipt of federal grant funds.

(b) Rules adopted pursuant to the authority of ss. 403.91- 403.929 (1984 Supp.), as amended, in effect prior to July 1, 1994, shall remain in full force and effect, and shall be implemented by the department. However, for the purpose of Rule 17-312, Florida Administrative Code, the landward extent of surface waters of the state identified in Rule 17-312.030(2), Florida Administrative Code, shall be determined in accordance with the methodology in Rules 17-340.100 through 17-340.600, Florida Administrative Code, as ratified in s. 373.4211, upon the effective, date of such ratified methodology. In implementing s. 373.421(2), the department shall determine the extent of those surface waters and wetlands within the regulatory authority of the department as described in this paragraph. At the request of the petitioner, the department shall also determine the extent of surface waters and wetlands which can be delineated by the methodology ratified in s. 373.4211, but which are not subject to the regulatory authority of the department as described in this paragraph.

(c) The department may implement Rule 40A-4, Florida Administrative Code, in effect prior to July 1, 1994, pursuant to an interagency agreement with the Northwest Florida Water Management District adopted under s. 373.046(4).

(2) The authority of the Northwest Florida Water Management District to implement this part or to implement any authority pursuant to delegation by the department shall not be affected by this section. The rule adoption deadline in s. 373.414(9) shall not apply to said district.

(3) The division of permitting responsibilities in s. 373.046(4) shall not apply within the geographical jurisdiction of the Northwest Florida Water Management District.

(4) If the United States Environmental Protection Agency approves an assumption of the federal program to regulate the discharge of dredged or fill material by the department or the water management districts, or both, pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C.S. 1251 et seq.; the United States Army Corps of Engineers issues one or more state programmatic general permits under the referenced statutes; or the United State Environmental Protection Agency or the United States Corps of Engineers approves any other delegation of regulatory authority under the referenced statutes, then the department may implement



any permitting authority granted in this part within the Northwest Florida Water Management District which is prescribed as a condition of granting such assumption, general permit, or delegation.

(5) Within the geographical jurisdiction of the Northwest Florida Water Management District, the methodology for determining the landward extent of surface waters of the state under chapter 403 in effect prior to the effective date of the methodology ratified in s. 373.4211 shall apply to:

(a) Activities permitted under the rules adopted pursuant to ss. 403.91-403.929 (1984 Supp.), as amended, or which were exempted from regulation under such rules, prior to July 1, 1994, and which were permitted under Rule 17-25, Florida Administrative Code, or exempt from Rule 17-25, Florida Administrative Code, prior to July 1, 1994, provided:

1. An activity authorized by such permits is conducted in accordance with the plans, terms, and conditions of such permits.

2. An activity exempted from the permitting requirements of the rules adopted pursuant to ss. 403.91-403.929 (1984 Supp.), as amended, or Rule 17-25, Florida Administrative Code, is:

a. Commenced prior to July 1, 1994, and completed by July 1, 1999;

b. Conducted in accordance with a plan depicting the activity which has been submitted to and approved for construction by the department, the appropriate local government, the United States Army Corps of Engineers or the Northwest Florida Water Management District; and

c. Conducted in accordance with the terms of the exemption.

(b) An activity within the boundaries of a valid jurisdictional declaratory statement issued pursuant to s. 403.914 (1984 Supp.), as amended, or the rules adopted thereunder, in response to a petition received prior to June 1, 1994.

(c) Any modification of a permitted or exempt activity as described in paragraph (a) which does not constitute a substantial modification or which lessens the environmental impact of such permitted or exempt activity. For the purposes of this section, a substantial modification is one which is reasonably expected to lead to substantially different environmental impacts.

(6) Subsections (1), (2), (3), and (4) shall be repealed effective July 1, 1999.

History.— s. 8, ch. 94-122.

*[The following replicates the numbering and text of the AHs and BOR, as described above; section 1.3.1 left out intentionally]*

### **1.3.2 Mitigation Ratio Guidelines**

Subsections 1.3.2 – 1.3.2.2 establish ratios for the acreage of mitigation required compared to the acreage which is adversely impacted by regulated activities. Ranges of ratios are provided below for certain specific types of mitigation, including creation, restoration, enhancement and preservation. The difference between the ranges of ratios provided for mitigation types is based on the degree of improvement in ecological value expected from each type. Creation and restoration are assigned the lowest range of ratios as these activities, when successfully conducted, add new wetlands or other surface waters which provide the same or similar functions as the areas adversely impacted. The range of ratios established for enhancement is higher than that for creation and restoration, as the area being enhanced currently provides a degree of the desired functions, and this type of mitigation serves to increase, rather than create, those functions. Preservation differs from the other types of mitigation in that it does not serve to improve the existing ecological value of an area in the short term. However, preservation does provide benefits as it can ensure that the values of the preserved area are protected and maintained in the long term, particularly when these values are not fully protected under existing regulatory programs. Therefore, the range of ratios established for preservation is higher than those for other types of mitigation. These ratios are provided as guidelines for preliminary planning purposes only. The actual ratio needed to offset adverse impacts may be higher or lower

based on a consideration of the factors listed in subsections DA-I.3.2.1 and DA-I.3.2.2. For example, in instances where the proposed system results in only a small loss of ecological value in the impacted area, such as cases involving impacts to areas of low ecological value or cases where the proposed system results in a small reduction of ecological value of the impacted area, then the actual mitigation ratio would normally be in the lower end of or below the range. For other types of mitigation, ratios will be determined based upon the reduction in quality and relative value of the functions of the areas adversely impacted as compared to the expected improvement in quality and value of the functions of the mitigation area.

### **1.3.2.1 Creation, Restoration and Enhancement**

When considering creation, restoration and enhancement as mitigation, the following factors will be considered to determine whether the mitigation proposal will offset the proposed impacts and to determine the appropriate mitigation ratio:

- (a) The reduction in quality and relative value of the function of the areas adversely impacted, including the factors listed in subsection X.2.2.3, as compared to the proposed improvement in quality and value of the functions of the area to be created, restored or enhanced.
- (b) Any special designation or classification of the affected area.
- (c) The presence and abundance of nuisance and exotic plants within the area to be adversely impacted.
- (d) The hydrologic condition of the area to be adversely impacted and the degree to which it has been altered relative to the historic condition.
- (e) The length of time expected to elapse before the functions of the area adversely impacted will be offset.
- (f) The likelihood of mitigation success.
- (g) For mine reclamation activities subject to chapter 211, F.S., part II, whether the ratio is consistent with the mine reclamation plan submitted pursuant to chapter 378, F.S.

**1.3.2.1.1** Creation and restoration have the potential to result in similar benefits, if they can be successfully accomplished. Therefore, the ratio ranges given below for these two types of mitigation are the same. Restoration is usually preferred over creation as it often has a greater chance of success due to soil characteristic, hydrologic regime, landscape position or other factors that favor re-establishment of wetland or other surface water communities. Restoration ratios will generally be at the lower end of the ratio ranges within the guidelines below. The following ratio guidelines will be used to estimate the acreage of wetland restoration or creation required:

- (a) Mangrove swamps, cypress swamps, and hardwood swamps - 2:1 to 5:1 (acres created or restored: acres impacted).
- (b) Saltwater marshes and freshwater marshes - 1.5:1 to 4:1 (acres created or restored: acres impacted).

**1.3.2.1.2** The ratio guidelines for use in the estimation of the acreage of wetland enhancement will range from 4:1 to 20:1 (acres enhanced: acres impacted).

#### **1.3.2.2 Preservation**

- (a) Preservation of important ecosystems can provide an improved level of protection over current regulatory programs. The District will consider as mitigation the preservation, by donation or conservation easement or other comparable land use restriction, of wetlands, other surface waters, or uplands. Conservation easements or restrictions must be consistent with the requirements of subsection DA-I.3.8. In many cases it is not expected that preservation alone will be sufficient to offset adverse impacts. Preservation will most frequently be approved in combination with other mitigation measures.
- (b) When considering preservation as mitigation, the following factors will be considered to determine whether the preservation parcel would offset the proposed impacts and to determine the appropriate mitigation ratio.
  - 1. The reduction in quality and relative value of the functions of the areas adversely impacted, including those factors listed in subsection DA-I.2.2.3, as compared to the quality and value of the functions of the area to be preserved and the additional protection provided to these functions by the proposed preservation. Factors used in determining this additional level of protection include the extent and likelihood that the land to be preserved would be adversely impacted if it were not preserved, considering the protection provided by existing regulations and land use restrictions.
  - 2. Any special designation or classification of the affected area.
  - 3. The presence and abundance of nuisance and exotic plants within the area to be adversely impacted.
  - 4. The ecological and hydrological relationship between wetlands, other surface waters, and uplands to be preserved.
  - 5. The extent to which proposed management activities on the area to be preserved promote natural ecological conditions, such as natural fire patterns.
  - 6. The proximity of the area to be preserved to areas of national, state, or regional ecological significance, such as national or state parks, Outstanding Florida Waters, and other regionally significant ecological resources or habitats, such as lands acquired or to be acquired through governmental or non-profit land acquisition programs for environmental conservation, and whether the areas to be preserved include corridors between these habitats.
  - 7. The extent to which the preserved area provides habitat for fish and wildlife, especially listed species.
  - 8. Any special designation or classification of the area to be preserved.

9. The extent of invasion of nuisance and exotic species within the area to be preserved.
- (c) Wetland and other surface water preservation ratios. Since wetlands and other surface waters are, to a large extent, protected by existing regulations, the ratio guideline for preservation of wetlands and other surface waters is substantially higher than for restoration and creation. The ratio guideline for wetland and other surface water preservation will be 10:1 to 60:1 (acreage wetlands and other surface waters preserved to acreage impacted).
- (d) Upland preservation ratios. Many wildlife species that are aquatic or wetland dependent spend critical portions of their life cycles in uplands. Uplands function as the contributing watershed to wetlands and are necessary to maintain the ecological value of those wetlands. Because of these values, the preservation of certain uplands may be appropriate for full or partial mitigation of wetland impacts, impacts to the upland portion of the riparian habitat protection zones described in subsections 11.3.5 and 11.4.4, and impacts to uplands that are used by listed aquatic or wetland dependent species as described in subsection DA-I.2.7(b). The ratio guideline for upland preservation will be 3:1 to 20:1 (acreage of uplands preserved to acreage impacted).

**12.3.2.3** To the extent that the area to be preserved offsets the adverse impact and otherwise meets the requirements of this section, wetland, other surface water, or upland habitat which is proposed to be preserved in order to prevent secondary or cumulative impacts can be considered as part of the mitigation plan to offset other adverse impacts of the system.

## 2 — Design and Performance Guidance for an Individual Private, Residential Single-family Residence Involving Dredging or Filling in Wetlands or Other Surface Waters

This section contains examples and suggestions intended to aid applicants in providing a more complete application for an Environmental Resource Permit to construct an individual, private single-family residence involving some impacts to wetlands.

Please note that the information contained in this section is provided for *guidance purposes*. It does not constitute rule criteria and is not to be used in lieu of adopted criteria or in a manner which is inconsistent with adopted rules. This information is intended to provide guidance for select situations. More elaborate analysis of the project may be needed depending on site topography, soils, existing development, receiving water body location and water quality classification, development density, and wetland preserve areas.

### Individual, Private Single-Family Home Projects

In order to obtain an Environmental Resource Permit to construct an individual, private single-family home involving some impacts to wetlands, an applicant must provide reasonable assurance that the project:

1. eliminates and reduces impacts to wetlands as much as possible
2. won't cause or contribute to flooding (water quantity),
3. will maintain pre-development drainage flows as much as possible, AND
4. won't contribute to water pollution (water quality).

The following should be considered by an applicant and should be described in the application and shown on the plans where possible.

- ☐ Eliminate and reduce any impacts to wetlands as much as possible. This may include changing the proposed layout for the home to utilize more upland area. It may include reducing the footprint of the house, driveway, deck, and pool. It may include reducing the size of the fill pad or constructing a fill pad with stem walls instead of sloping sides. Department or Water Management District staff can assist in determining where the wetlands on a property are located. Please note that an applicant may be required to provide mitigation for wetland impacts that remain (cannot be eliminated or reduced.) Please see figures 1a and 1b for an example:

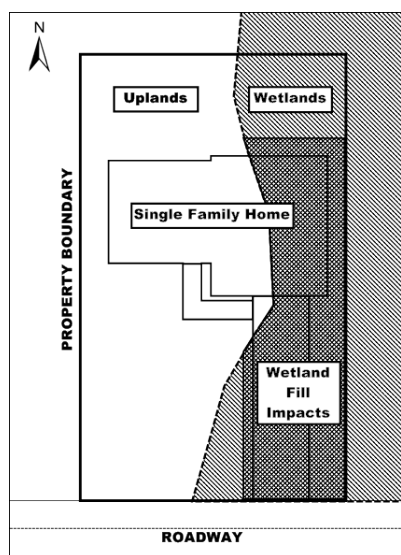


Figure 1a. Single-family home project that does not eliminate and reduce wetland impacts.

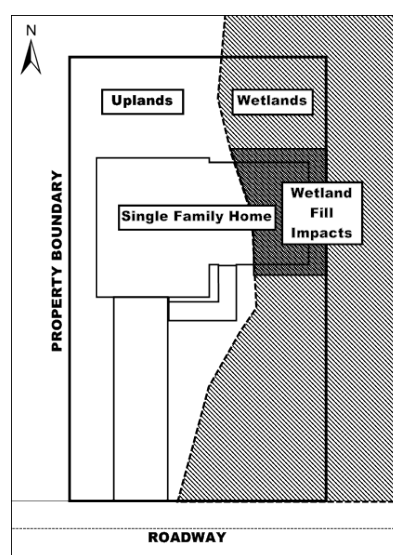


Figure 1b. Single-family home project that eliminates and reduces wetland impacts.

- Reduce the amount of impervious surface proposed for your project. This will reduce the amount of runoff produced after a rain storm (water quantity). (Did you know that a 1/4 inch of rainfall on a 2,000 ft<sup>2</sup> roof produces 312 gallons of runoff?) Efforts to reduce the amount of impervious and areas where alternative design and construction techniques or alternative construction materials will be used should be described in the application and shown on the plans where possible.

Ways to reduce the amount of impervious surface can include, but are not limited to:

- Reducing the size of the home.
- Reducing or eliminating concrete decks such as pool decks or patios.
- Using pea gravel or paving stones to construct sidewalks and other external walkways instead of solid concrete.



**Figure 2a.** (Source: Google Images.)

Constructing the driveway with two wheel tracks with grass in the middle instead of solid concrete or asphalt. See Figure 2a.



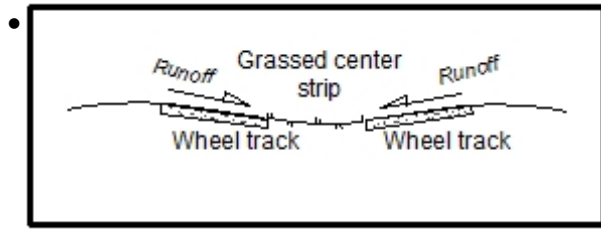
**Figure 2b** (Source: Google Images.)

Construct the driveway using gravel (not limerock) instead of solid concrete or asphalt. See Figure 2b.



**Figure 2c** (Source: Google Images.)

Construct the driveway using paving stones with grass in between instead of solid concrete or asphalt. See Figure 2c.



Construct the driveway with gravel, pavers, or wheel tracks and invert the crown, or center line of the driveway so that runoff flows toward the middle and not to the outside edges. See Figure 2d.

**Figure 2d. Example driveway cross section.**  
(Note: scale is exaggerated.)

- ☐ As much as possible, direct stormwater runoff from rooftops and other impervious surfaces onto grassed areas or into rain gardens, landscaping and flower beds. Doing this will slow down the runoff allowing some of it to percolate into the ground or evaporate into the air, which will reduce the chances of causing offsite flooding. Efforts to minimize and redirect stormwater runoff to grassed or landscaped areas should be described in the application and shown on the plans to the extent possible. Please see Figures 3a and 3b, below.



**Figure 3a. Roof gutter down spout draining onto a concrete driveway**



**Figure 3b. Roof gutter down spout draining onto grass**

- ☐ Fill material to be used for the house pad and/or driveway must be clean (without rubbish or vegetative material) and it should drain well. Specifications for the fill material to be used in the project should be included in the supporting information submitted with the permit application.
- ☐ The pre-development drainage patterns must be maintained as much as possible. Adding vegetated swales and/or buffer strips to intercept and direct runoff to pre-development locations may be necessary. Please see figures 4a and 4b, below, for an example:



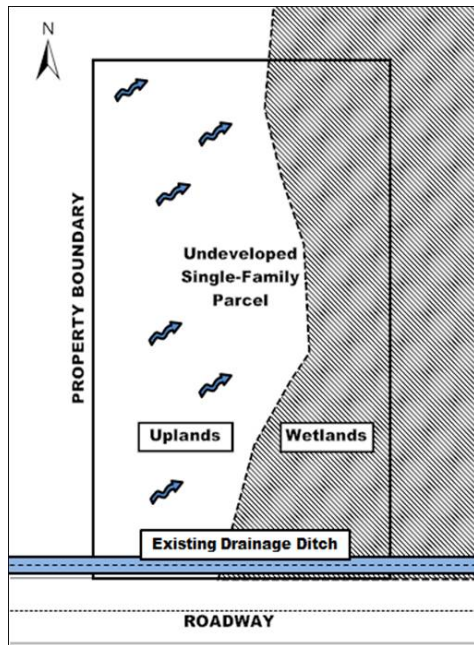


Figure 4a. Pre-development drainage pattern is toward the wetland

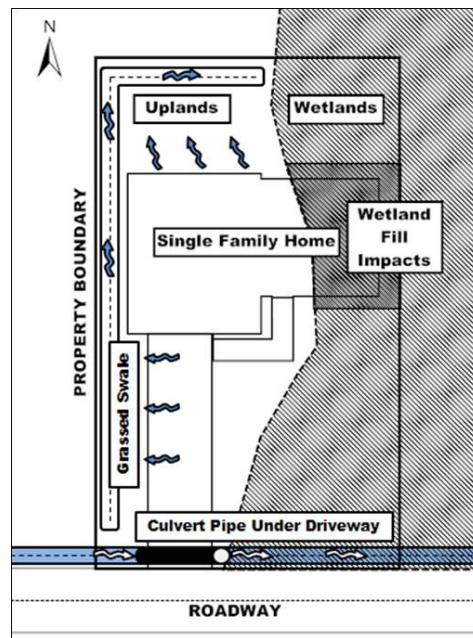


Figure 4b. Post development - property grading and swales direct runoff along the property boundary toward the wetland and a culvert under the driveway maintains flow in the drainage ditch

The following tables provide estimations of the volume of runoff that swales of different lengths can provide:

Length (feet)	Slope 4:1		Slope 6:1	
	Cubic Feet	Gallons	Cubic Feet	Gallons
10	10.00	75	15.00	112
15	15.00	112	22.50	168
20	20.00	150	30.00	224
25	25.00	187	37.50	281
30	30.00	224	45.00	337
35	35.00	262	52.50	393
40	40.00	299	60.00	449
45	45.00	337	67.50	505
50	50.00	374	75.00	561
55	55.00	411	82.50	617
60	60.00	449	90.00	673
65	65.00	486	97.50	729
75	75.00	561	112.50	842
80	80.00	598	120.00	898
85	85.00	636	127.50	954
90	90.00	673	135.00	1010
95	95.00	711	142.50	1066
100	100.00	748	150.00	1122

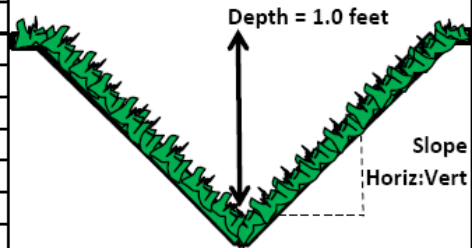
**CROSS-SECTIONAL VIEW**



### Storage Capacity for a Triangular Swale with 1.0 feet of Depth

Length (feet)	Slope 4:1		Slope 6:1	
	Cubic Feet	Gallons	Cubic Feet	Gallons
10	40.00	299	60.00	449
15	60.00	449	90.00	673
20	80.00	598	120.00	898
25	100.00	748	150.00	1122
30	120.00	898	180.00	1346
35	140.00	1047	210.00	1571
40	160.00	1197	240.00	1795
45	180.00	1346	270.00	2020
50	200.00	1496	300.00	2244
55	220.00	1646	330.00	2469
60	240.00	1795	360.00	2693
65	260.00	1945	390.00	2917
75	300.00	2244	450.00	3366
80	320.00	2394	480.00	3591
85	340.00	2543	510.00	3815
90	360.00	2693	540.00	4039
95	380.00	2843	570.00	4264
100	400.00	2992	600.00	4488

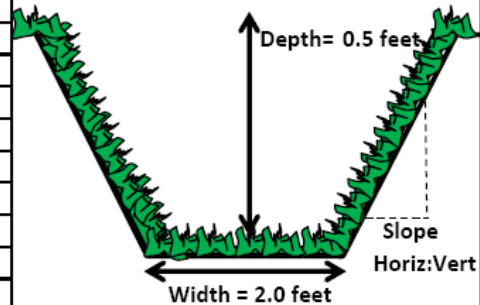
CROSS-SECTIONAL VIEW

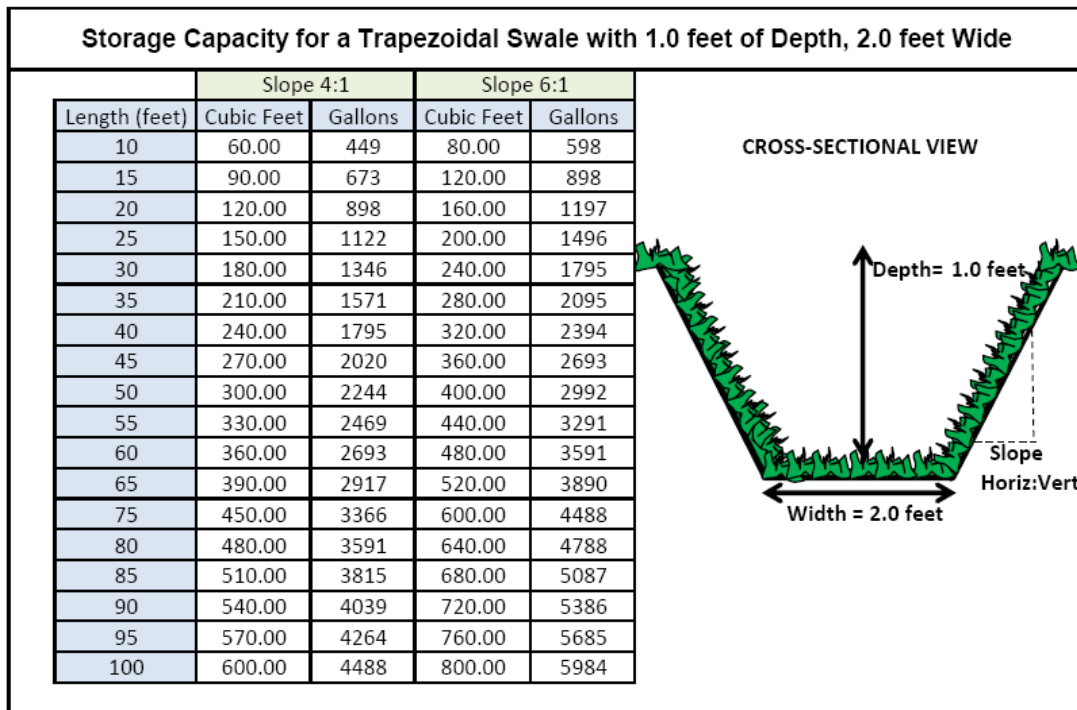


### Storage Capacity for a Trapezoidal Swale with 0.5 feet of Depth, 2.0 feet Wide

Length (feet)	Slope 4:1		Slope 6:1	
	Cubic Feet	Gallons	Cubic Feet	Gallons
10	20.00	150	25.00	187
15	30.00	224	37.50	281
20	40.00	299	50.00	374
25	50.00	374	62.50	468
30	60.00	449	75.00	561
35	70.00	524	87.50	655
40	80.00	598	100.00	748
45	90.00	673	112.50	842
50	100.00	748	125.00	935
55	110.00	823	137.50	1029
60	120.00	898	150.00	1122
65	130.00	972	162.50	1216
75	150.00	1122	187.50	1403
80	160.00	1197	200.00	1496
85	170.00	1272	212.50	1590
90	180.00	1346	225.00	1683
95	190.00	1421	237.50	1777
100	200.00	1496	250.00	1870

CROSS-SECTIONAL VIEW





The following web sites may provide the applicant with additional information and ideas for their project:

- Geographical information including water bodies, drainage basins and approximate wetland areas can be found at DEP's Water Data Central - <http://www.dep.state.fl.us/water/datacentral/>
- Check County websites for a Water Atlas or similar web page
- Information on the type of soils and the soil characteristics for an area can be found at the USDA's Natural Resources Conservation Service (NRCS) Soils website at <http://soils.usda.gov/>
- Information on flood zones can be found at the FEMA website at <http://www.fema.gov/>
- Information on Low Impact Development can be found at the EPA's website at <http://water.epa.gov/polwaste/green/index.cfm>

### 3 — Sediment Sump Design Example

A horizontal-flow sump or sediment basin must remove the particles under peak flow conditions. The length of the sediment sump or basin will be governed by the depth required by the settling velocity of the particle, and the cross-sectional area will be governed by the rate of flow.

A length to depth ratio for the sediment sump or basin can be calculated:

$$\text{Flow through velocity (V}_d\text{)} = \frac{(\text{length of sump (l)} \times \text{Settling velocity (V}_s\text{)})}{\text{depth of sump (h)}}$$

The cross-sectional area (A) required for peak flow (Q<sub>p</sub>) at a flow through velocity (V<sub>d</sub>):

$$Q_p = A V_d$$

$$A = \frac{Q_p}{V_d}$$

The cross-sectional area (A) is the width of the sump (W) multiplied by the depth of the sump (h):

$$A = Wh$$

The sump can be sized using these equations:

$$l = \frac{V_d h}{V_s}$$

$$Q_p = V_d Wh$$

Where:

Q <sub>p</sub>	=	design peak rate of flow
V <sub>d</sub>	=	flow through velocity
V <sub>s</sub>	=	settling velocity
l	=	length of sump
W	=	width of sump
h	=	depth of sump

V<sub>s</sub> is the settling velocity for a discrete particle using Stokes Law:

$$V_s = \frac{gd^2(S_s - 1)}{18\gamma}$$

Where:

V <sub>s</sub>	=	settling velocities
S <sub>s</sub>	=	specific gravity of particle
γ	=	kinematic viscosity
d	=	diameter of particle
g	=	acceleration due to gravity

Remember that the Reynolds number for flow must be less than one for Stokes Law to apply.

Given the following, calculate the settling velocity, the flow through velocity and the sump dimensions:

$$\begin{aligned}
 d &= 0.01 \text{ cm sand particle} \\
 S_s &= 2.65 \text{ for sand particle} \\
 \gamma &= 1.31 \times 10^{-2} \text{ cm}^2/\text{sec with water at } 20^\circ\text{C} \\
 g &= 981 \text{ cm/sec}^2
 \end{aligned}$$

$$V_s = \frac{981 * 0.01^3 * (2.65 - 1)}{18 * 1.31 * 10^{-2}} = 0.69 \frac{\text{cm}}{\text{sec}}$$

$$V_s = \frac{0.69 \text{ cm}}{\text{s}} \left( \frac{0.3937 \text{ in}}{\text{cm}} \right) \left( \frac{1 \text{ ft}}{12 \text{ in}} \right) = 0.23 \frac{\text{ft}}{\text{s}}$$

$V_d$  is the flow through velocity which must be less than the velocity required to transport the design particle:

$$V_d = \frac{8 K'}{f} g d (S_s - 1)$$

$$V_d = \left( \frac{8(0.06)}{0.03} \right) (32.2) \left( \frac{0.00394}{12} \right) (2.65 - 1) = 0.26 \frac{\text{ft}}{\text{s}}$$

Where:

$$\begin{aligned}
 V_d &= \text{velocity required to transport water born particle} \\
 d &= \text{diameter of the particle} = 0.01 \text{ cm} = 0.0394 \text{ inches} \\
 f &= \text{Darcy-Weisbach friction factor} = 0.03 \\
 K' &= \text{Cohesiveness factor of particle} = 0.06 \\
 &\quad (\text{clean grit} = 0.04, \text{ sticky} = 0.8) \\
 S_s &= \text{Specific gravity of particle} = 2.65 \\
 g &= \text{acceleration due to gravity} = 32.2 \text{ ft/sec}^2
 \end{aligned}$$

To determine the sediment sump dimensions given the following:

$$\begin{aligned}
 V_d &= 0.26 \text{ ft/sec} & l &= (h V_d)/V_s \\
 V_s &= 0.023 \text{ ft/sec} \\
 Q_p &= 25 \text{ cfs} & w &= Q_p/(h V_d)
 \end{aligned}$$

By fixing one of the variables ( $w$ ,  $h$ ,  $l$ ), the others can be calculated:  
If  $h = 3.5$  feet, then:

$$l = \frac{h V_d}{V_s} = \frac{3.5 * 0.26}{0.023} = 39.56 \text{ ft}$$

$$w = \frac{Q_p}{h V_d} = \frac{25}{3.5 * 0.26} = 27.47 \text{ ft}$$

#### **4 — Critical Habitat Maps for Johnson’s Seagrass**

Figure 1, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within the Indian River Lagoon north and south of the Sebastian Inlet Channel

Figure 2, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within the Indian River Lagoon near the Ft. Pierce Inlet

Figure 3, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within the Indian River Lagoon along the western shoreline of Hutchinson Island north of the St. Lucie Inlet

Figure 4, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within Hobe Sound along the western shoreline of Jupiter Island

Figure 5, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) on the south side of Jupiter Inlet

Figure 6, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) north of Bingham Island in central Lake Worth Lagoon

Figure 7, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within Lake Worth, near Boynton Inlet in Boynton Beach.

Figure 8, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within Lake Wyman in Boca Raton.

Figure 9, Critical Habitat for Johnson’s seagrass (*Halophila johnsonii*) within a portion of Biscayne Bay

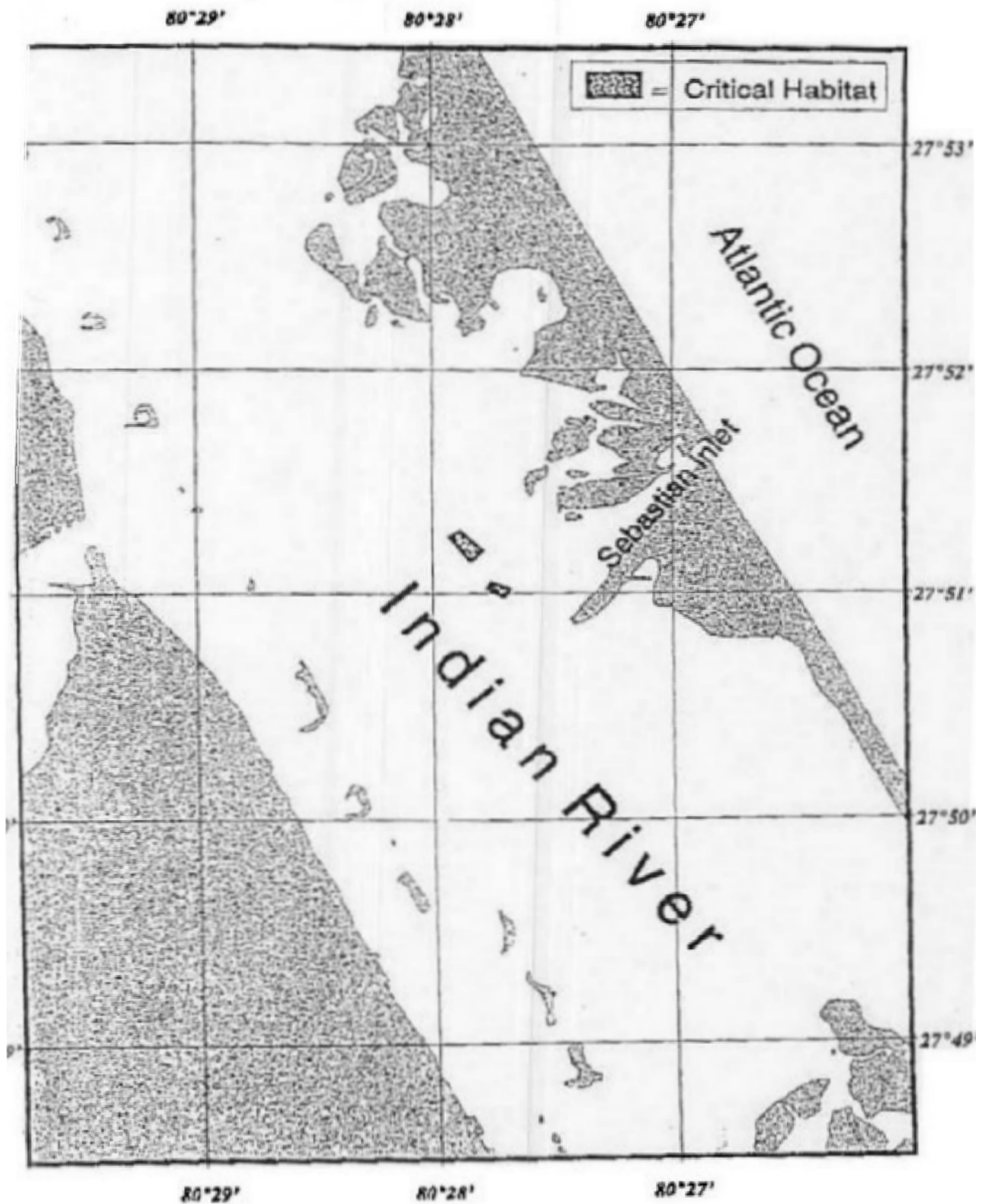


Figure 1. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within the Indian River Lagoon north and south of the Sebastian Inlet Channel.



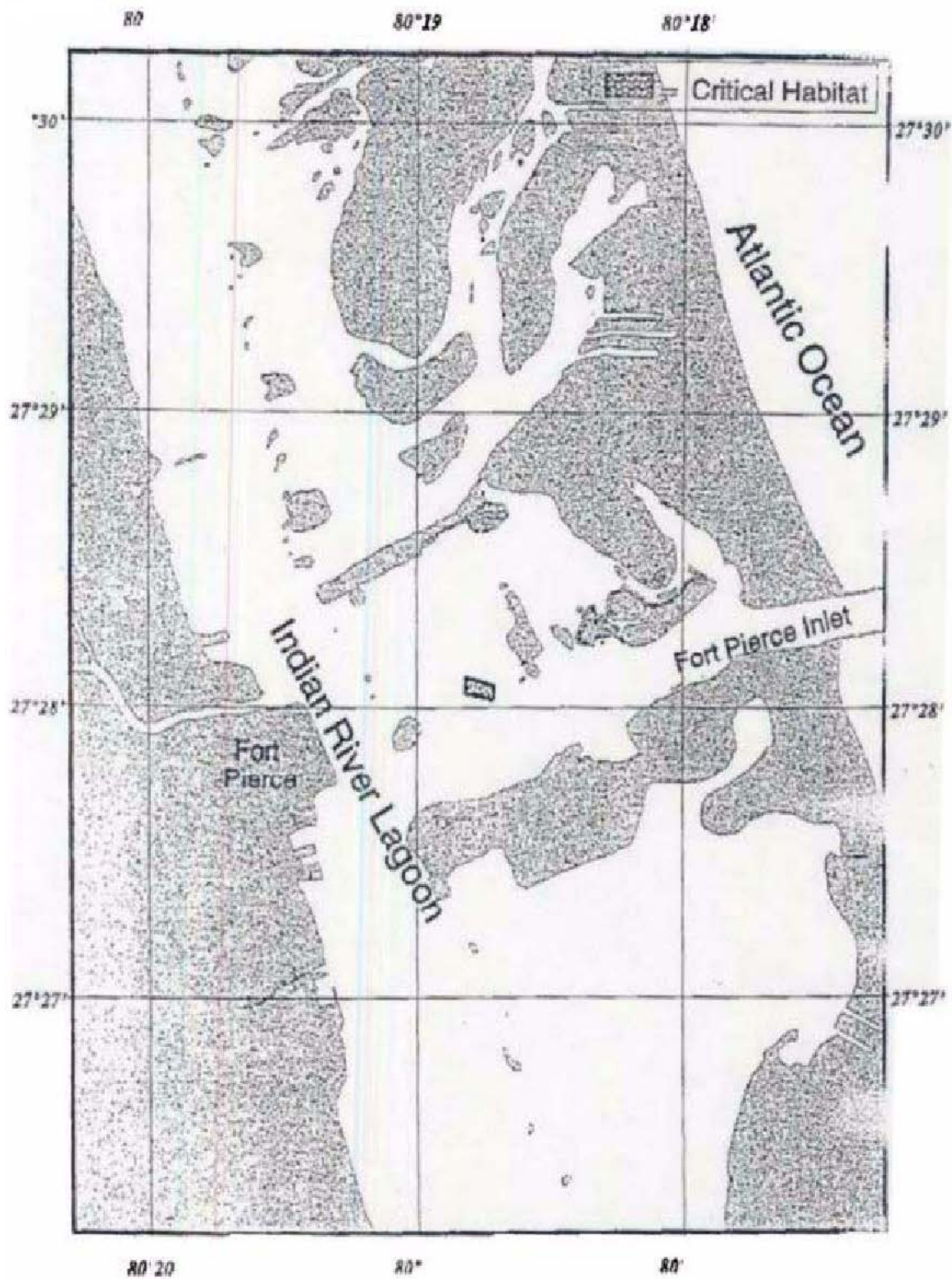


Figure 2. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within the Indian River Lagoon near the Ft. Pierce Inlet.

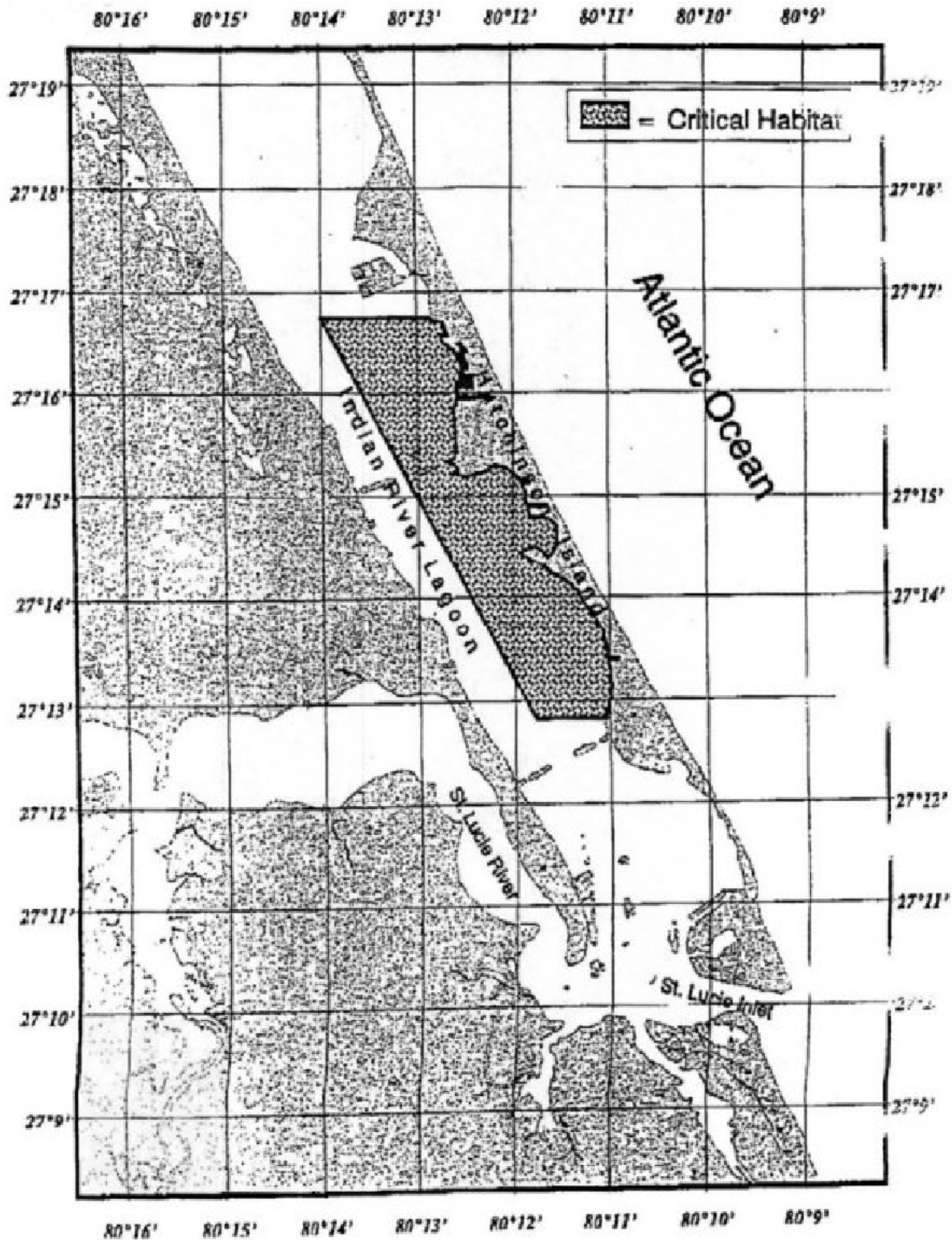


Figure 3. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within the Indian River Lagoon along the western shoreline of Hutchinson Island north of the St. Lucie Inlet.



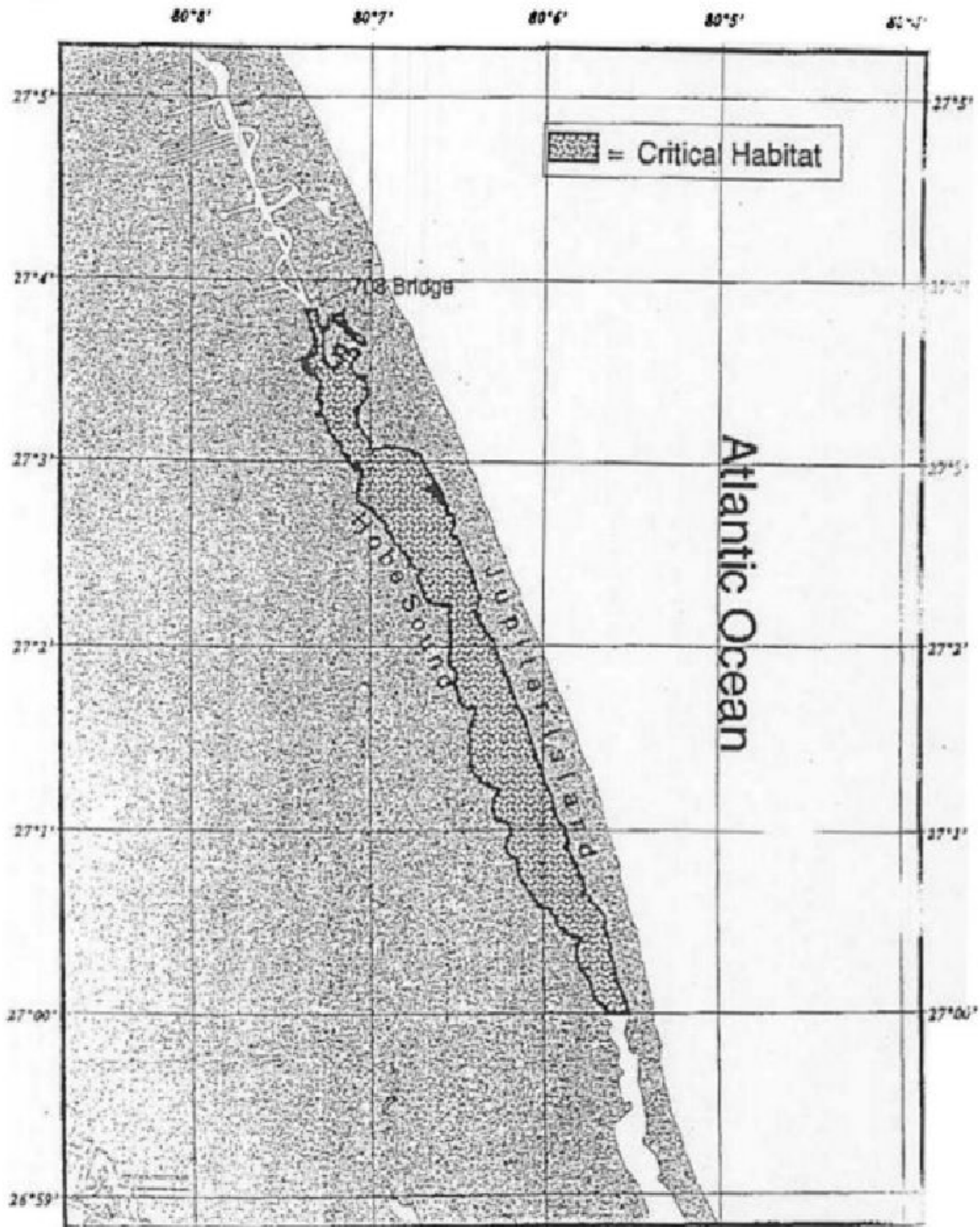


Figure 4. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within Hobe Sound along the western shoreline of Jupiter Island.

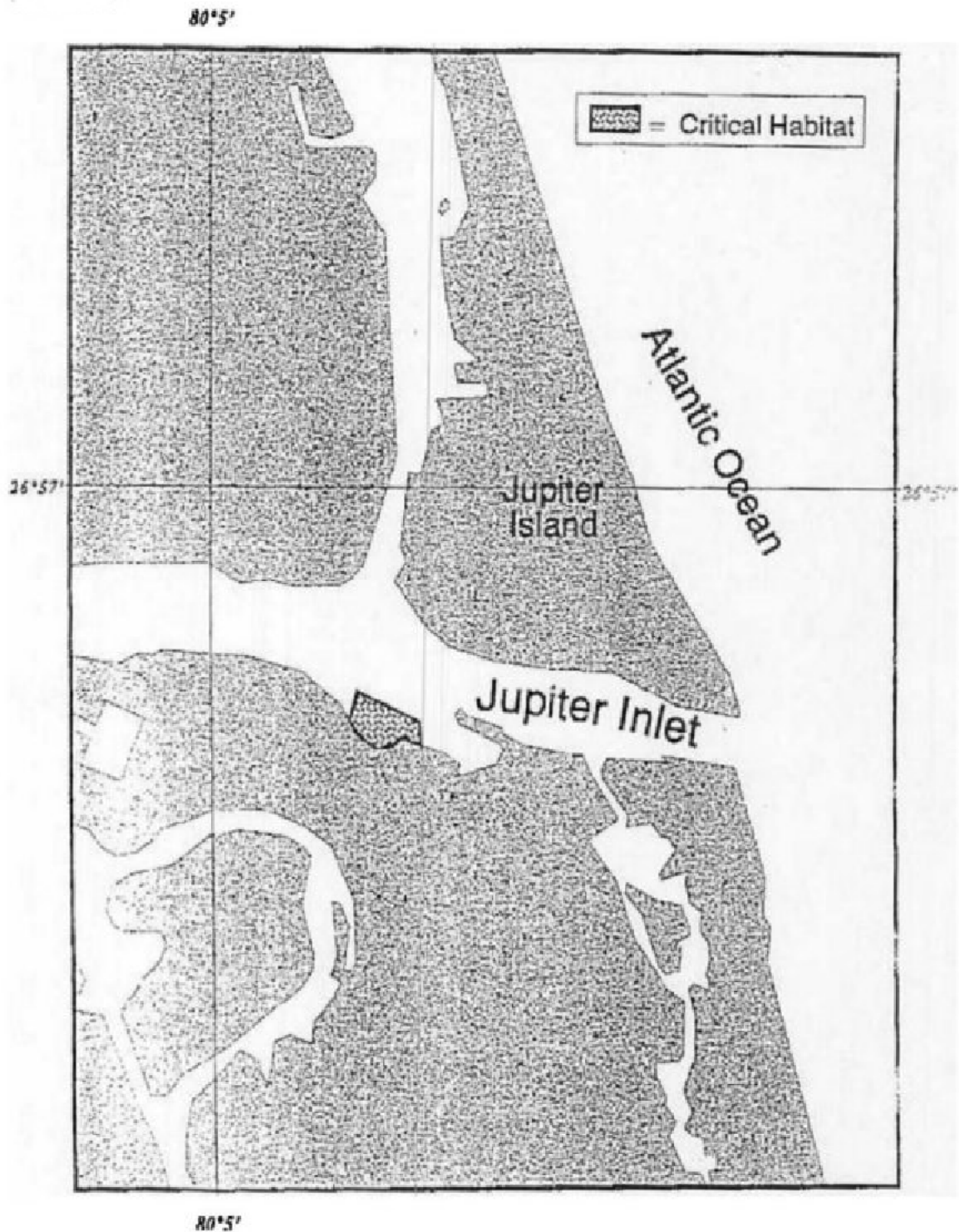


Figure 5. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) on the south side of Jupiter Inlet.

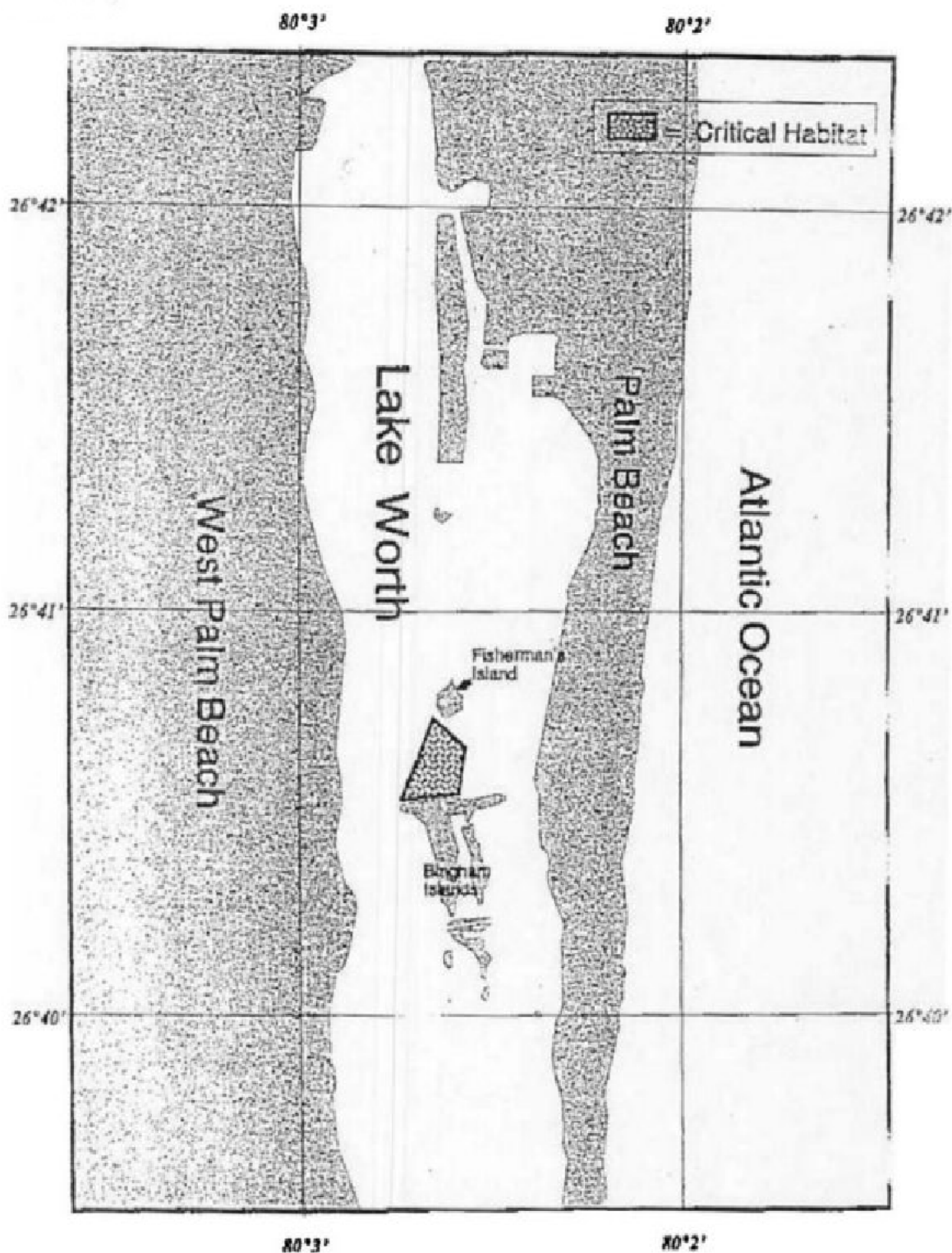


Figure 6. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) north of Bingham Island in central Lake Worth Lagoon.

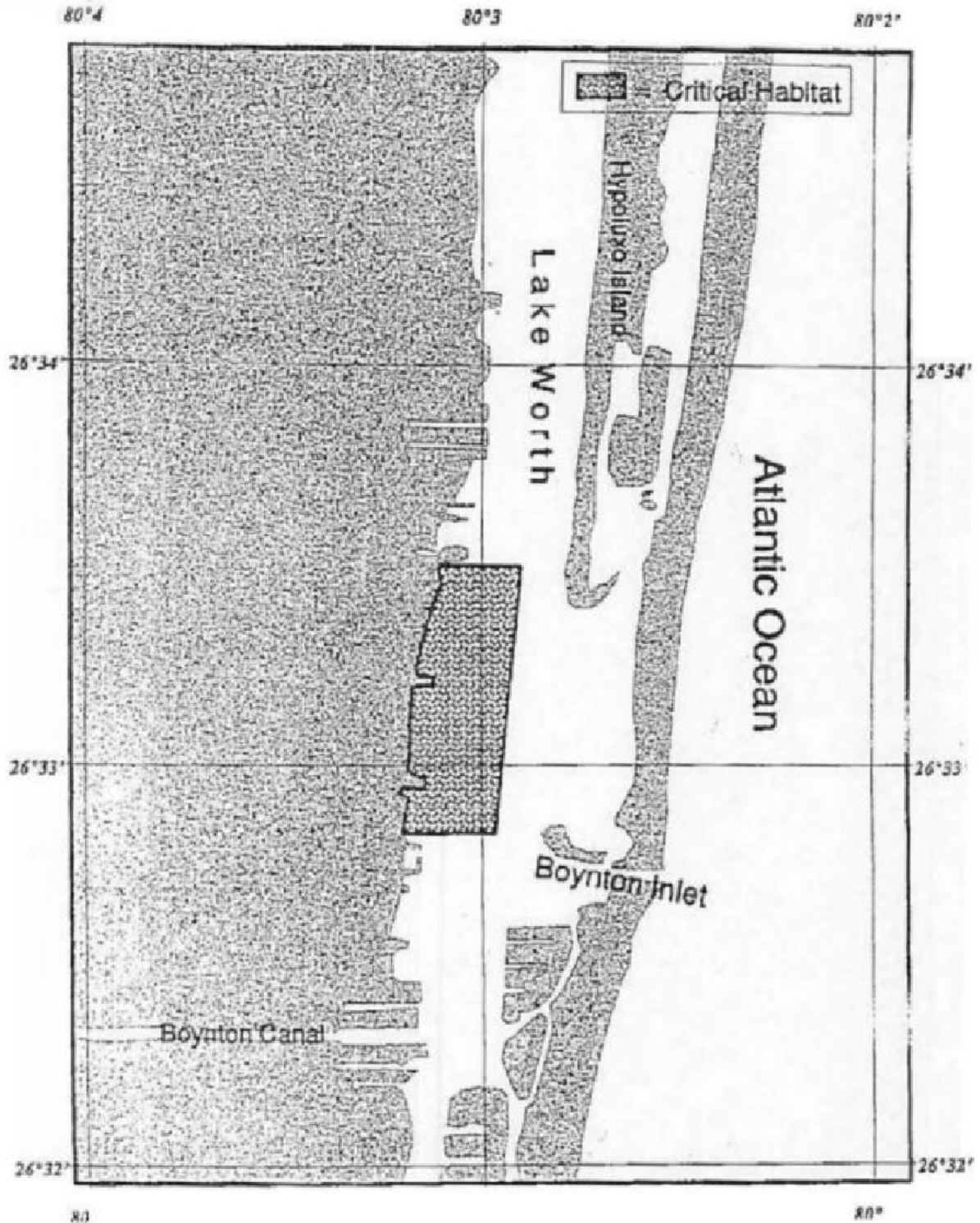


Figure 7. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within Lake Worth, near Boynton Inlet in Boynton Beach.

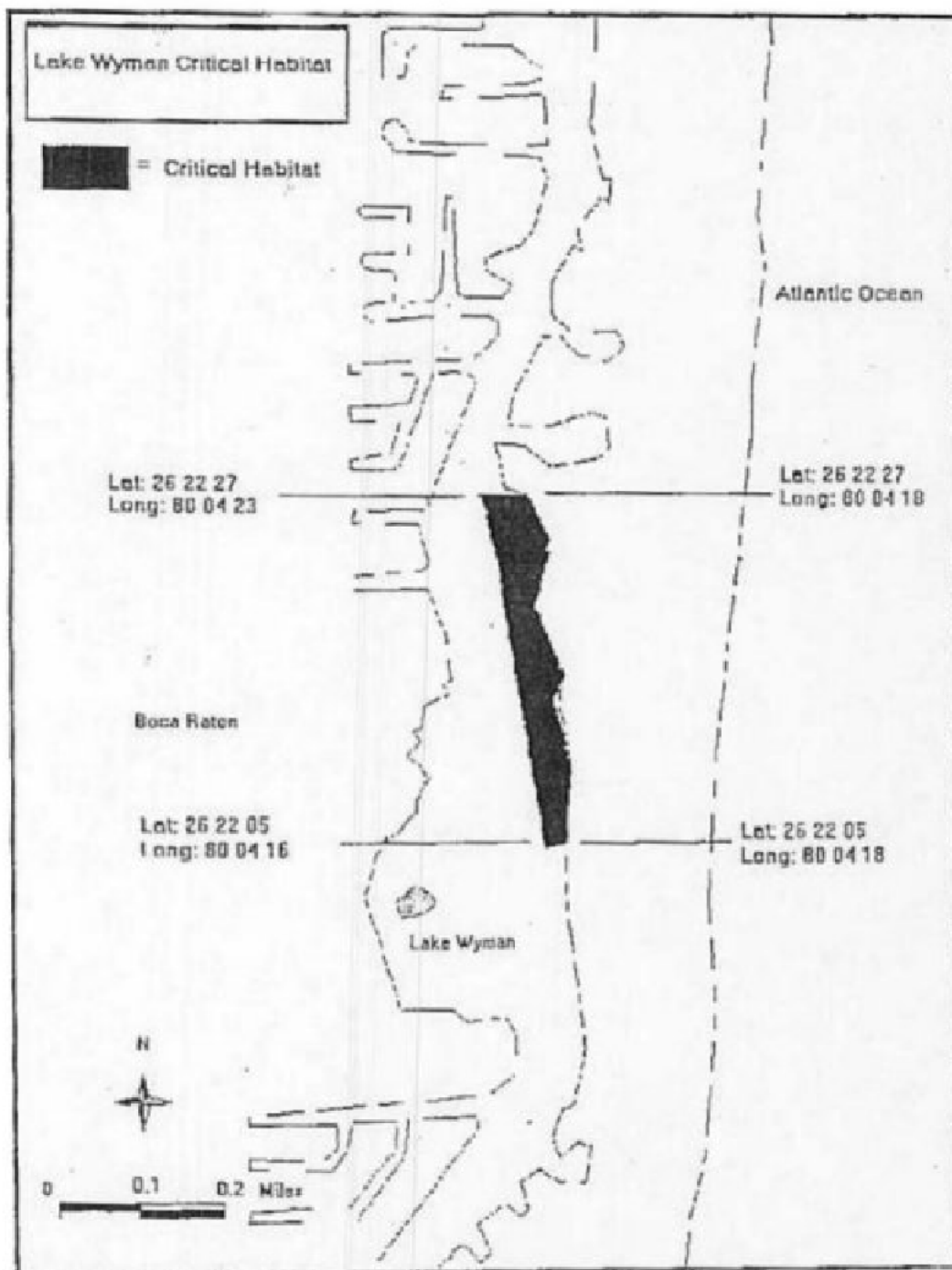


Figure 8. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within Lake Wyman in Boca Raton.



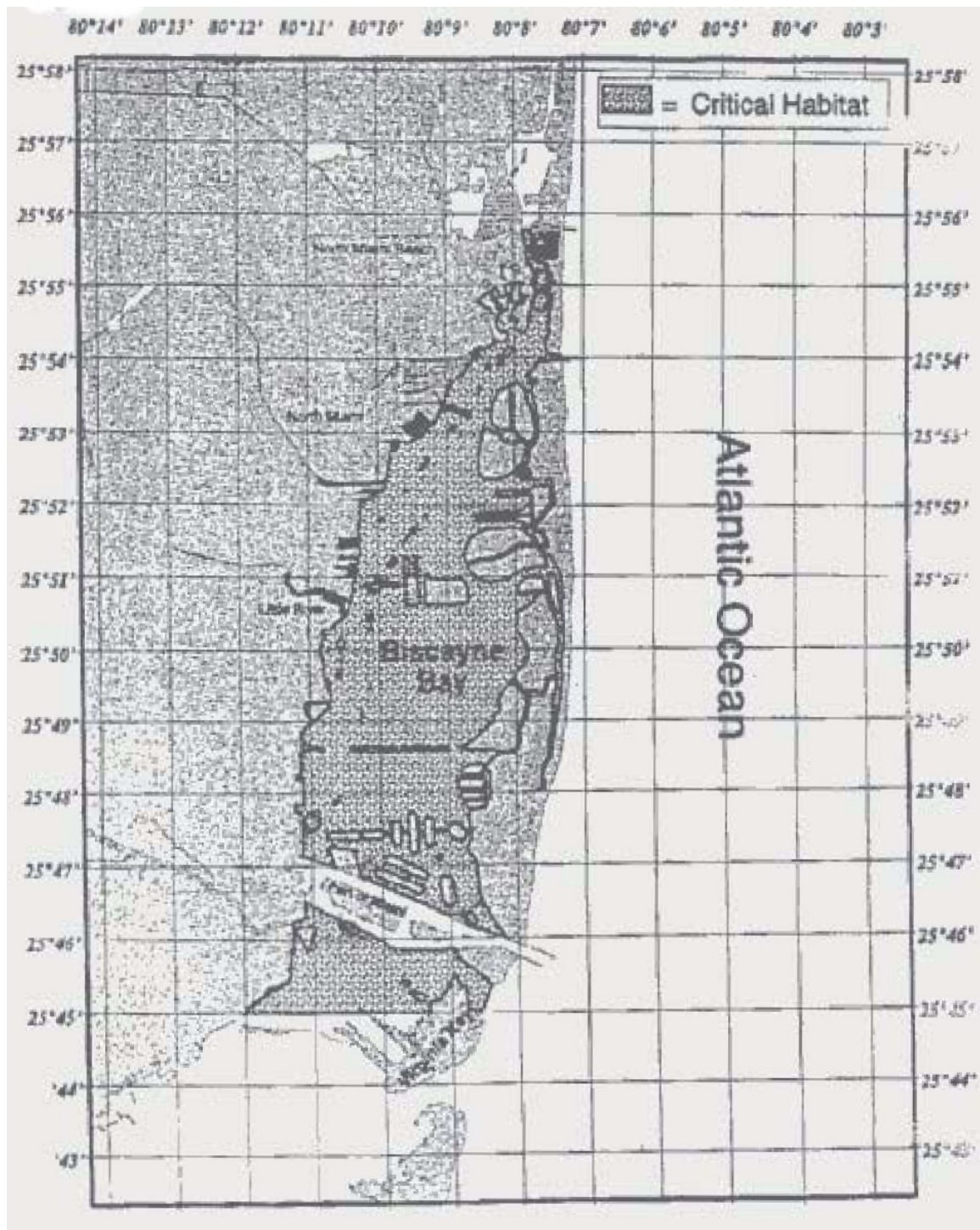
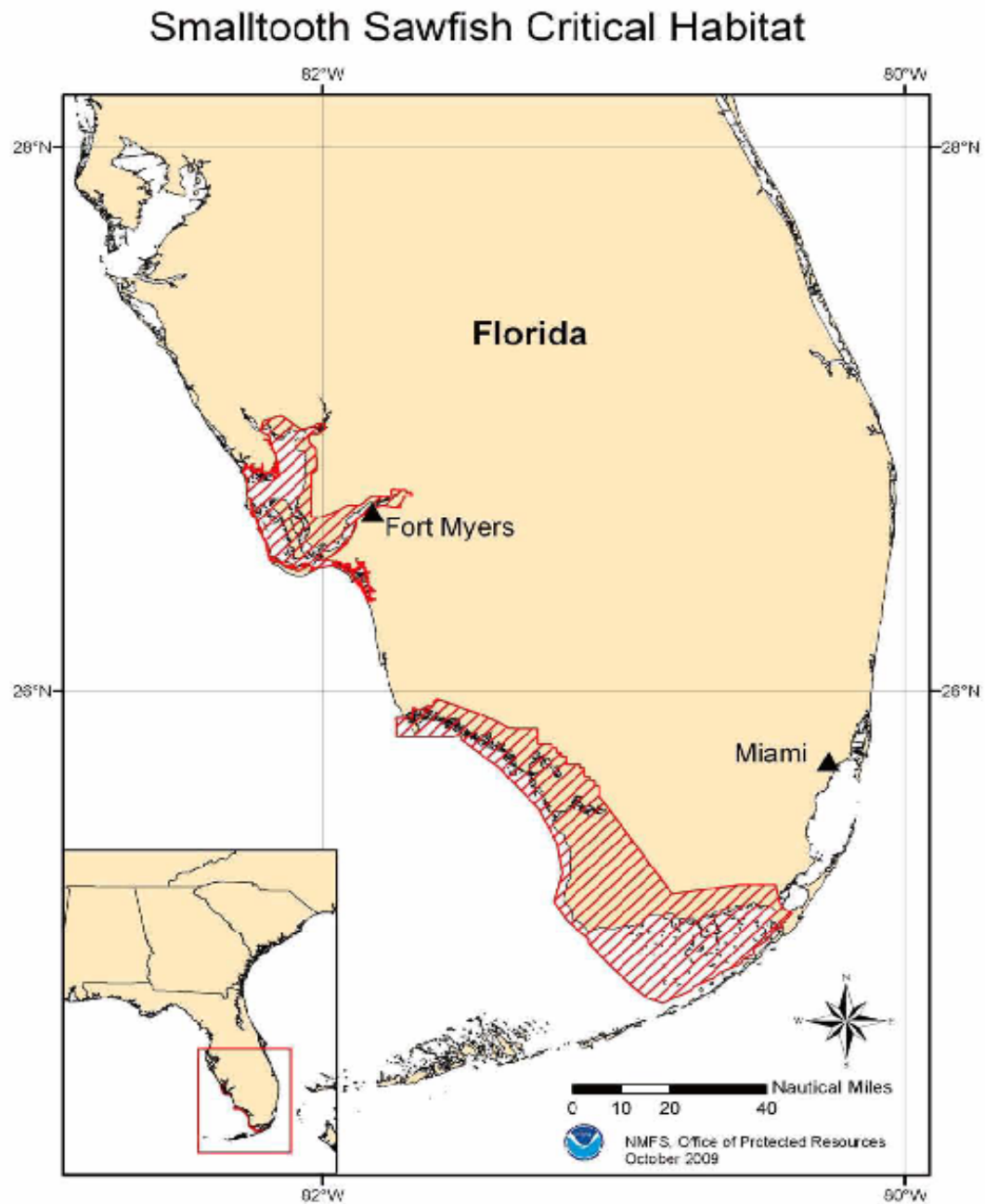


Figure 9. Critical Habitat for Johnson's seagrass (*Halophila johnsonii*) within a portion of Biscayne Bay.

## 5 — Critical Habitat Maps for the Smalltooth Sawfish

(As referenced in Section 10.2.6-1 of Volume I and adopted in 62-330.631(2)(c), F.A.C. -- 50 CFR section 226.218, "Critical habitat for the U.S. DPS of smalltooth sawfish (*Pristis pectinata*)," [October 1, 2012]. See <http://www.nmfs.noaa.gov/pr/pdfs/criticalhabitat/smalltoothsawfish.pdf>)



## **6 — Helpful Internet Links**

*(Note: Internet URLs are subject to change)*

The following Internet links are provided for additional information regarding:

U.S. Army Corps of Engineers—Regulatory Section (for information on Florida permits, public notices, regional general permits, nationwide permits, contact information, and the “Source Book”) —  
<http://www.saj.usace.army.mil/Missions/Regulatory.aspx>



## **7 — Operation and Maintenance Documents**

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### **MODEL LANGUAGE FOR DECLARATION OF COVENANTS AND RESTRICTIONS [Under Applicant's Handbook Volume I section 12.3.3(c)]**

\*\*\*\* Note:--When used for applications that are reviewed and acted upon by the District, replace all uses of the word "Agency" with "XX Water Management District" (where "XX" = Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, or South Florida, as applicable) or "NFWFMD, SRWMD, SJRWMD, SWFWMD, or SFWMD", respectively, as applicable. When used for applications that are reviewed and acted upon by the Department, replace uses of the word "Agency" the first time used with "Florida Department of Environmental Protection," and all following uses of the word "Agency" with either "Department" or "DEP," as appropriate.\*\*\*\*

## **DECLARATION OF COVENANTS AND RESTRICTIONS**

### **DEFINITIONS**

"Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapter 62-330, F.A.C.

### **USE OF PROPERTY**

Stormwater Management System

The \_\_\_\_\_ Association shall be responsible for the maintenance, operation and repair of the stormwater management system. Maintenance of the stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the Agency. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the stormwater management system shall be as permitted, or if modified as approved by the Agency.

### **AMENDMENT**

Any amendment to the Covenants and Restrictions that alters the stormwater management system, beyond maintenance in its original condition, including mitigation or preservation areas and the water management portions of the common areas, must have the prior approval of the Agency.

### **ENFORCEMENT**

The Agency shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the stormwater management system.

### **ARTICLES OF INCORPORATION**

#### **Duties**

The Association shall operate, maintain and manage the stormwater management system(s) in a manner consistent with the requirements of Agency Permit No. \_\_\_\_\_ and applicable Agency rules, and shall assist in the enforcement of the restrictions and covenants contained herein.

#### **Powers**

The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the stormwater management system.

**Assessments**

The assessments shall be used for the maintenance and repair of the stormwater management systems and mitigation or preservation areas, including but not limited to work within retention areas, drainage structures and drainage easements.

**Dissolution Language**

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the stormwater management system must be transferred to and accepted by an entity which complies with Rule 62-330.310, F.A.C., and Applicant's Handbook Volume I, Section 12.3, and be approved by the Agency prior to such termination, dissolution or liquidation.

**Existence and Duration**

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

## **CHECKLIST FOR HOMEOWNER/PROPERTY OWNER ASSOCIATION DOCUMENTS**

Application or Permit No. \_\_\_\_\_  
Project Name \_\_\_\_\_

This checklist is to be used by staff in the review of Homeowner/Property Owner Association (Association) Article of Incorporation, Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium or other recorded documents (Documents) for compliance with section 12.3 of the Applicant's Handbook Volume I (Volume I). This checklist also may be useful by applicants to ensure that the documents submitted to the Agency for review are complete.

### **I. POWERS AND ATTRIBUTES OF THE ASSOCIATION**

Pursuant to Section 12.3.3(a), Volume I, the Articles of Incorporation or other documents of record shall set forth-general powers and attributes of the association.

A. Do the documents give the Association the following powers?

1. To own and convey property; \_\_\_\_\_; page number \_\_\_\_\_
2. To operate and maintain common property, including the permitted stormwater management system \_\_\_\_\_; page number \_\_\_\_\_
3. The power to establish rules and regulations \_\_\_\_\_; page number \_\_\_\_\_
4. To assess members and enforce assessments \_\_\_\_\_; page number \_\_\_\_\_
5. To sue and be sued \_\_\_\_\_; page number \_\_\_\_\_ and \_\_\_\_\_
6. To contract for services to provide for operation and routine custodial maintenance \_\_\_\_\_; page number \_\_\_\_\_
7. To require all owners of real property or units to be members of the corporation or association \_\_\_\_\_; page number \_\_\_\_\_
8. To demonstrate that the land on which the stormwater management system is located is owned or otherwise controlled by the corporation or association to the extent necessary to operate and maintain the system or convey operation and maintenance to another entity \_\_\_\_\_; page number \_\_\_\_\_

### **II. LEGAL DESCRIPTION AND EASEMENTS**

- A. Do the documents cover the entire project according to the legal description? \_\_\_\_\_  
If not, which phase(s) does it cover? \_\_\_\_\_
- B. Is the legal description included as an exhibit? \_\_\_\_\_; Exhibit number \_\_\_\_\_
- C. Is the legal description by plat? \_\_\_\_\_ Are golf courses, if any, platted? \_\_\_\_\_

- D. Where or how will conservation, drainage, access and maintenance easements be dedicated?  
\_\_\_\_\_
- E. 1. Are drainage, access and maintenance easements defined and reserved/dedicated to the operating entity?<sup>1</sup>\_\_\_\_\_; page number \_\_\_\_\_
2. Does the dedication/reservation state that the easement may not be removed from its intended use by subsequent owners or others?\_\_\_\_\_; page number \_\_\_\_\_
3. If a reservation or dedication to the operating entity is not included in the documents, please identify the document(s) where such a reservation or dedication is made.\_\_\_\_\_
- F. Are conservation easement use restrictions defined and included in the documents?<sup>2</sup>\_\_\_\_\_; page number \_\_\_\_\_

### **III. OWNERSHIP AND MAINTENANCE**

- A. Pursuant to section 12.3.3(c)1, Volume I, the documents should state that “It is the responsibility of the Association to operate and maintain the stormwater management system.” Do the documents provide that the association shall operate and maintain the stormwater management system?\_\_\_\_\_; page number\_\_\_\_\_
- B. Pursuant to section 12.3.3(c)2, Volume I, do the documents state that the Association owns the stormwater management system?\_\_\_\_\_; page number \_\_\_\_\_
- C. Pursuant to section 12.3.3(c)3, Volume I, there must “be a method of assessing and collecting the assessment for operation and maintenance of the stormwater management system.” Do the documents provide that the association can assess and collect for the operation, maintenance and replacement of the stormwater management system through regular and special assessments?\_\_\_\_\_; page number \_\_\_\_\_

### **IV. AMENDMENTS, DURATION AND DISSOLUTION**

- A. Section 12.3.3(c)4, Volume I, states “That any proposed amendment to the Association’s documents affecting the stormwater management system (including environmental conservation areas and the water management portions of the common areas) must be submitted to the Agency for a determination of whether the amendment necessitates a modification of the environmental resource permit. If a modification is necessary, the Agency will so advise the permittee. The amendment affecting the stormwater management system may not be finalized until any necessary permit modification is approved by the Agency or the Association is advised that a modification is not necessary.”

Is an amendment section included, which requires Agency approval if the stormwater management system, environmental conservation areas, and/or water management portions of common areas requested by the permit would be affected?\_\_\_\_\_; page number \_\_\_\_\_

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<sup>1</sup> See Sections 2.4 and 2.5, Volume II.

<sup>2</sup> Although not specifically required by Section 12.3.3, Volume I, the inclusion of conservation easement use restrictions in the documents is considered informative.

- B. Section 12.3.3(c)5, Volume I, provides: “That the governing provisions of the Association must be in effect for at least 20 years with automatic renewal periods thereafter.”

Do the documents have minimum 20-year duration with automatic renewal periods thereafter? \_\_\_\_\_; page number \_\_\_\_\_

- C. Section 12.3.3(c)6, Volume I, states: “That the Association shall exist in perpetuity. However, should the Association dissolve, the operational documents shall provide that the stormwater management system shall be transferred to and maintained by one of the entities identified in sections 12.3.1(a) through (f), who has the powers listed in section 12.3.3(b)1. through 8., the covenants and restrictions required in section 12.3.3(c)1. through 9., herein, and the ability to accept responsibility for the operation and routine custodial maintenance of the stormwater management system described in section 12.3.3(d)1. or 2.

1. Do the documents provide that the Association shall exist in perpetuity? \_\_\_\_\_; page number \_\_\_\_\_
2. If the Association is dissolved, are their provisions requiring the stormwater management system, property containing the stormwater management system and water management portions of common areas required to be conveyed to an entity meeting the requirements explained above? \_\_\_\_\_; page number \_\_\_\_\_

## **V. MONITORING AND MAINTENANCE**

If monitoring and/or maintenance of mitigation areas are required by the permit, please answer the following questions.

Section 12.3.3(c)7, Volume I, states: “If wetland mitigation monitoring is required by the environmental resource permit and the operational entity will be responsible to carry out this obligation, the rules and regulations shall state that it will be the Association’s responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring.”

- A. If wetland mitigation monitoring will be the responsibility of the Association, do the Association documents indicate that the Association shall be responsible for mitigation monitoring? \_\_\_\_\_; page number \_\_\_\_\_
- B. Are any requirements pertaining to perpetual mitigation maintenance included in the documents? \_\_\_\_\_; page number \_\_\_\_\_

## **VI. ENFORCEMENT**

- A. Section 12.3.3(c)8, Volume I, provides: “The Agency has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the stormwater management system facilities or in mitigation or conservation areas under the responsibility or control of the Association.”

Do the Association documents indicate that the Agency has the right to take enforcement action against the Association as stated above? \_\_\_\_\_; page number \_\_\_\_\_

## **VII. PHASED PROJECTS OR INDEPENDENT ASSOCIATIONS**

- A. Section 12.3.3(d)1, Volume I, provides that if a master association is proposed for a project which will be constructed in phases and subsequent phases will use the same stormwater management system, does this Association have the ability to accept future phases into the Association? \_\_\_\_\_; page number \_\_\_\_\_
- B. Section 12.3.3(d)2, Volume I, provides that if the development contemplates independent associations for different phases, but proposes an interdependent water management system for the different phases:
1. Do the documents provide that the independent associations, if any, have the right to utilize the permitted stormwater management system? \_\_\_\_\_; page number \_\_\_\_\_
  2. Do the documents delineate maintenance responsibilities between the parties and grant ingress and egress easements for maintenance? \_\_\_\_\_; page number \_\_\_\_\_

## **Additional Documents Required in Conjunction with Construction Completion Certification**

Simultaneous with the submittal of the construction completion/construction certification statement, or within 30 days of Agency acceptance of the same, the following additional documents will be required:

1. Filed copy of the articles of incorporation;
2. Copy of recorded deed restrictions and associated exhibits;
3. Documentation of active corporate status;
4. Copies of all recorded plats; and
5. Form 62-330.310(2), "Request for Transfer of Environmental Resource permit to the Perpetual Operation Entity," with an authorized signature of the proposed transferee,

OR

A signed written statement from the proposed transferee that it has reviewed the Agency permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.



Application No(s).\_\_\_\_\_

Permit No.\_\_\_\_\_

Project Name:\_\_\_\_\_

### **AFFIDAVIT**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_  
in the capacity as \_\_\_\_\_, hereby certify to the  
following pertaining to the above project:

**[per 12.3.3(b), Volume I]** I certify that the Home or Property Owners' or Condominium or Community or Master-Association has the following general powers and attributes set forth in the Articles of Incorporation or other documents on the page numbers indicated:

1. The power to:	
a. Own and convey property;	Page no._____
b. Operate and perform routine custodial maintenance of the stormwater management system as exempted or permitted by the Agency, including all lakes, retention areas, culverts and related appurtenances;	Page no._____
c. Establish rules and regulations;	Page no._____
d. Assess members and enforce assessments;	Page no._____
e. Sue and be sued; and	Page no._____
f. Contract for services to provide for operation and maintenance services.	Page no._____
g. Require all owners of real property or units are members of the Association	Page no._____
h. Demonstrate that the land on which the stormwater management system is located is owned or otherwise controlled by the corporation or association to the extent necessary to operate and maintain the system or convey operation and maintenance to another entity; and	Page no._____

**[per 12.3.3(c), Volume I]** I further certify that the following covenants and restrictions are contained in the Declaration of Protective Covenants, Declaration of Condominium, Deed Restrictions or Articles of Incorporation (documents) on the page numbers indicated:

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1. The Association is responsible for the operation and maintenance of the stormwater management system described in the permit.	Page no. _____
2. The stormwater management system is owned by the Association or described therein as common property.	Page no. _____
3. The Association is responsible for assessing and collecting fees for the operation and maintenance of the stormwater management system.	Page no. _____
4. Any amendment proposed to these documents which would affect the stormwater management system (including environmental conservation areas and water management portions of the common areas) will be submitted to the Agency for a determination of whether the amendment necessitates a modification of the permit. Any amendment affecting the stormwater management system will not be finalized until any necessary permit modification is approved by the Agency or the Association is advised that a modification is not necessary.	Page no. _____
5. The rules and regulations shall remain in effect for a minimum of twenty-five (25) years and shall be automatically renewed thereafter.	Page no. _____
6. That Association shall exist in perpetuity. However, should the Association dissolve, the stormwater management system will be transferred to and maintained by one of the entities identified in sections 12.3.1(a) through (f), of the Agency's Applicant's Handbook Volume I, who has the powers listed in section 12.3.3(b) 1. through 8., the covenants and restrictions required in section 12.3.3(c) 1. through 9., and the ability to accept responsibility for the operation and routine custodial maintenance of the stormwater management system described in section 12.3.3(d) 1. or 2. prior to its dissolution.	Page no. _____
7. If wetland mitigation or monitoring is required the association shall be responsible to carry out this obligation. The rules and regulations state that it shall be the Association's responsibility to complete the task successfully, including meeting all (permit) conditions associated with wetland mitigation, maintenance and monitoring.	Page no. _____
8. The Agency has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the stormwater management system facilities or in mitigation or conservation areas under the responsibility or control of the Association.	Page no. _____
9. The environmental resource permit and its conditions will be attached to	Page no. _____

the rules and regulations as an exhibit. The Registered Agent for the Association will maintain copies of all further permitting actions for the benefit of the Association.	
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**[per 12.3.3(d), Volume I]** If the project is a phased project or has independent associations, I further certify that the following powers and duties are contained in the documents:

1. The (Master) Association has the power to accept into the association subsequent phases, that will utilize the same stormwater management system; or	Page no._____
2. a. The documents provide that independent associations have the right to use the permitted stormwater management system;	Page no._____
b. The documents delineate maintenance responsibilities between the independent associations;	Page no._____
c. Cross easements for drainage, and ingress and egress for maintenance, copies of which are attached, have been granted between all independent associations utilizing the stormwater management system.	Page no._____
d. The golf course owner / operator is a member of the Association and the documents reflect this relationship.	Page no._____

\_\_\_\_\_  
Signature

State of Florida  
County of \_\_\_\_\_)

I HEREBY CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, an officer authorized in the State aforesaid and in the County aforesaid to take acknowledgements by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

\_\_\_\_\_  
Notary Public, State of Florida

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