

**TO 4B OR NOT TO 4B:  
THE FLORIDA EXPERIENCE**

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# LEGAL FRAMEWORK

## FEDERAL

- **FCWA – No authority**
- **1995 Regs - 40CFR Part 130.7(b)(1)**
- **2008 Integrated Report Guidance**  
“Not on 303(d) list if other Federal, state, or local control activities will lead to meeting WQS in reasonable time”
- **Six required elements to submit**

## **SIX REQUIRED ELEMENTS**

- **ID water body and impairment pollutant**
- **Describe pollution controls programs**
- **Estimate time when WQS will be met**
- **Implementation schedule**
- **Monitoring plan to track effectiveness**
- **Commitment to revise pollution controls**

# LEGAL FRAMEWORK

## STATE OF FLORIDA

- **Watershed Restoration Act (403.067, F.S.)**
- **403.067(4), F.S.**

**“Not list if technology-based controls and other ...pollution control programs, including Everglades restoration & National Estuary Programs, will restore WQS”**

- **Chapter 62-303.600, F.A.C**

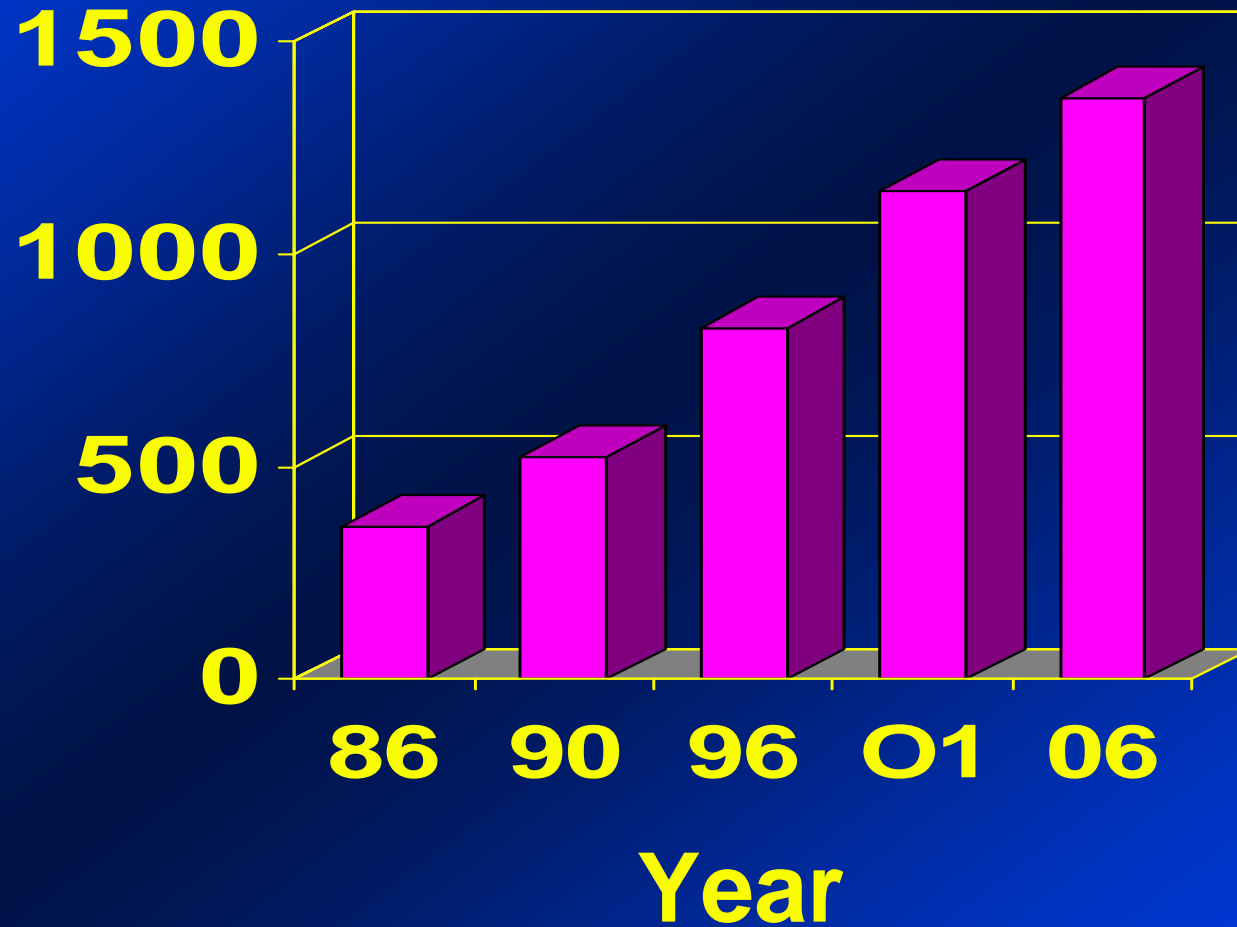
**“Not list if pollution control programs provide reasonable assurance...WQS will be met by next listing cycle”**

# FLORIDA POINT SOURCE PROGRAMS (62-4, 62-600, 62-620, 62-621, 62-660, FAC)

- **NPDES permits**
  - **surface water discharges**
  - **<500 left in the state**
  - **WQBELs**
  - **TBELs**
- **State permits**
  - **non-surface water discharges**



## Reuse Capacity (MGD)



# **NPS PROGRAMS FOR NEW SOURCES**

- **1972**      **DRI/ACSC laws**  
**Land Conservation Act (EEL)**
- **1975**      **Local Govt. Comp Planning Act**
- **1979**      **State Stormwater Rule**
- **1981**      **OSDS rule revisions**  
**Save Our Coasts/Our Rivers**
- **1984**      **Wetlands Protection Act**
- **1985**      **State Comprehensive Plan**  
**LGCP & LDR Act**
- **1989**      **Preservation 2000**
- **1999**      **FI Watershed Restoration Act**

# NPS PROGRAMS FOR EXISTING SOURCES

- **1986**      **Stormwater utility enabling legislation**
- **1987**      **SWIM Act**
- **1989**      **Dairy Rule for Okeechobee, Stormwater law**
- **1992**      **SFWMD Rule 40E-63 (EAA BMPs)**
- **1994**      **Nitrate Bill/Fee**  
**Everglades Forever Act**
- **1997**      **SRF opened to urban and ag stormwater**
- **1999**      **Forever Florida Act**  
**Florida Watershed Restoration Act**
- **2000**      **Lake Okeechobee Protection Act**  
**Revised State Revolving Fund legislation**
- **2005**      **Florida Watershed Restoration Act amendments**
- **2007**      **Northern Everglades Estuaries Protection Act**

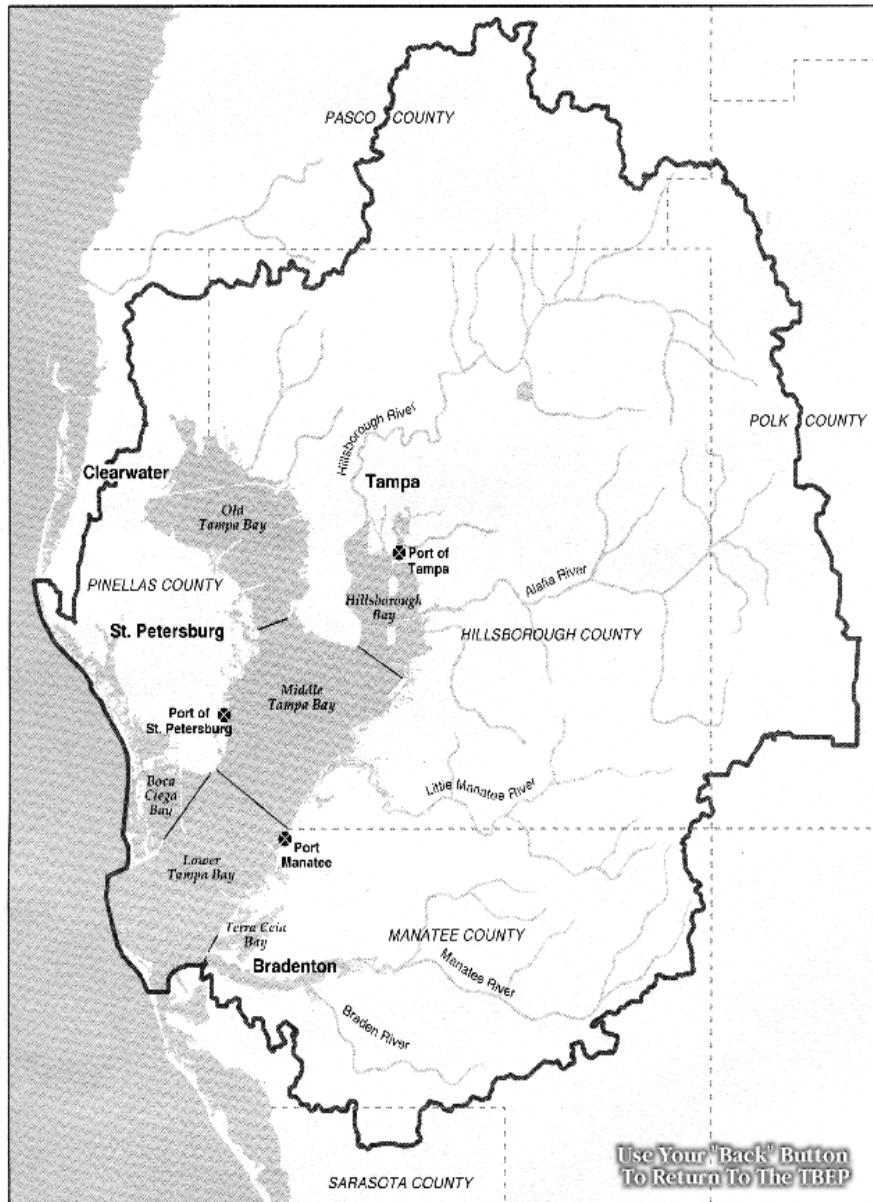


# FLORIDA'S ATTEMPTS AT REASONABLE ASSURANCE

WATER BODY	LEAD ENTITY	CONTROL AUTHORITIES
Tampa Bay	TB Estuary Program	TBEP CCMP Hold the Line
Middle Suwannee River	SR Partnership	State, WMD ag BMPs,
Shell, Joshua, Prairie Creeks	SWFWMD	State, WMD laws, rules
Lake Seminole	Pinellas County	State and local laws, rules
Florida Keys	DEP	State laws

Tampa Bay Watershed Boundaries and Bay Segments

Figure 3



More than 2 million people reside in the 2,200-square-mile Tampa Bay watershed, which reaches into Sarasota, Pasco and Polk counties and includes three major seaports. Tampa Bay is Florida's largest open water estuary, covering almost 400 square miles.

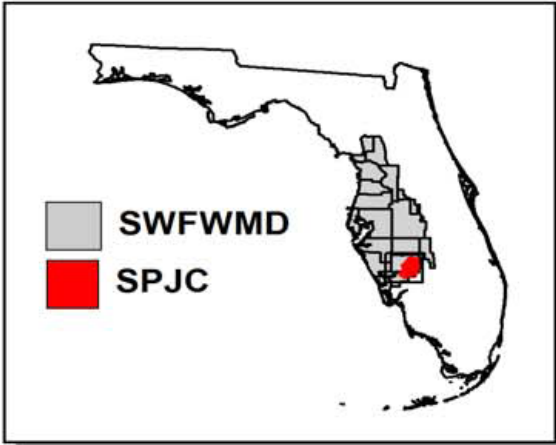
## Tampa Bay

- Central west coast of Florida
- 400 sq. mile area
- 2000 sq. mile watershed
- Population ~ 2 million
- Long history of human abuse – dredging, POTW discharges, stormwater discharges, hydrologic modification, habitat loss, seagrass loss

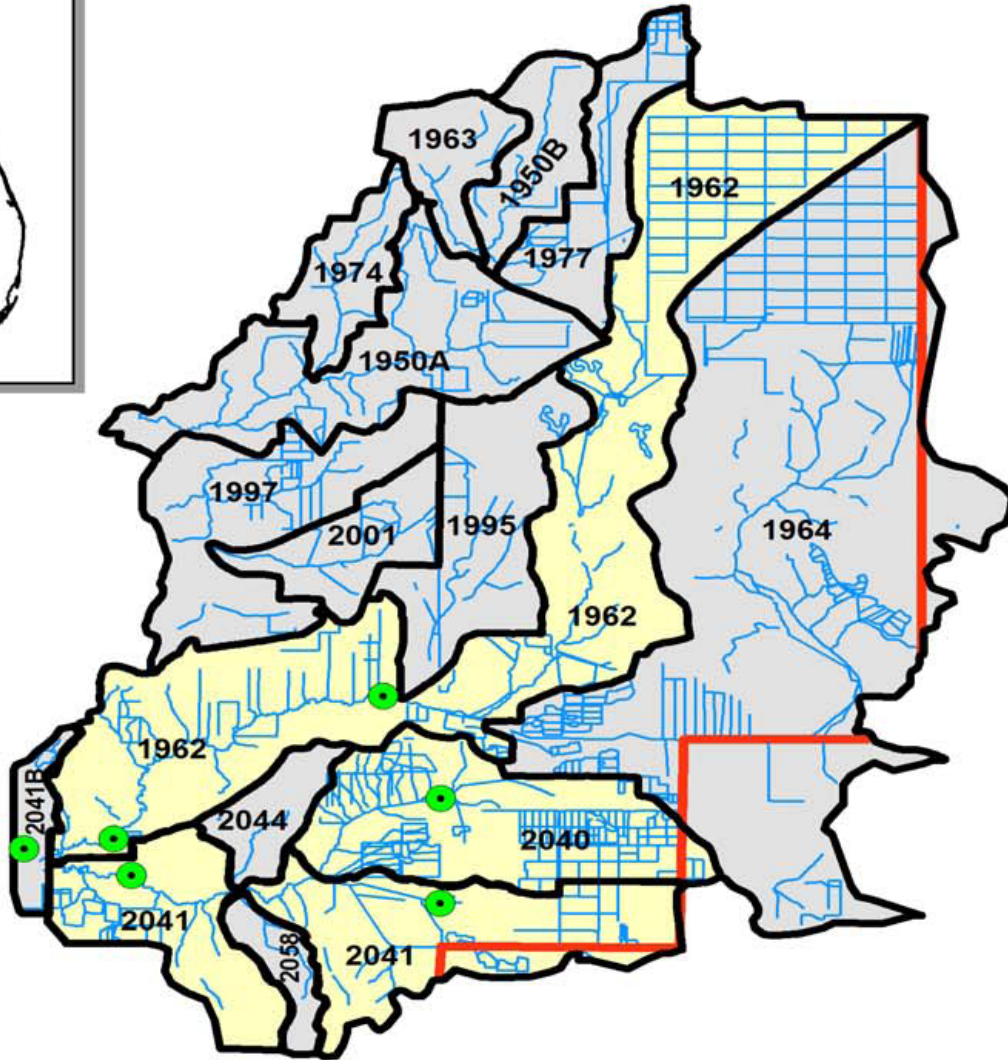
## TAMPA BAY

- **2002 Delist List via RAD**
- **EPA never acted on list – relied on 1998 TMDL – pre-FWRA**
- **SWIM Priority Water Body - Plan**
- **National Estuary Program CCMP**
  - **Goal – restore seagreass via N control**
  - **Hold line to N during 1992-94**
  - **17 ton per year reduction**
  - **Nitrogen Management Consortium**
  - **Currently doing reallocation/status rpt.**

# SHELL, JOSHUA, PRAIRIE CREEKS



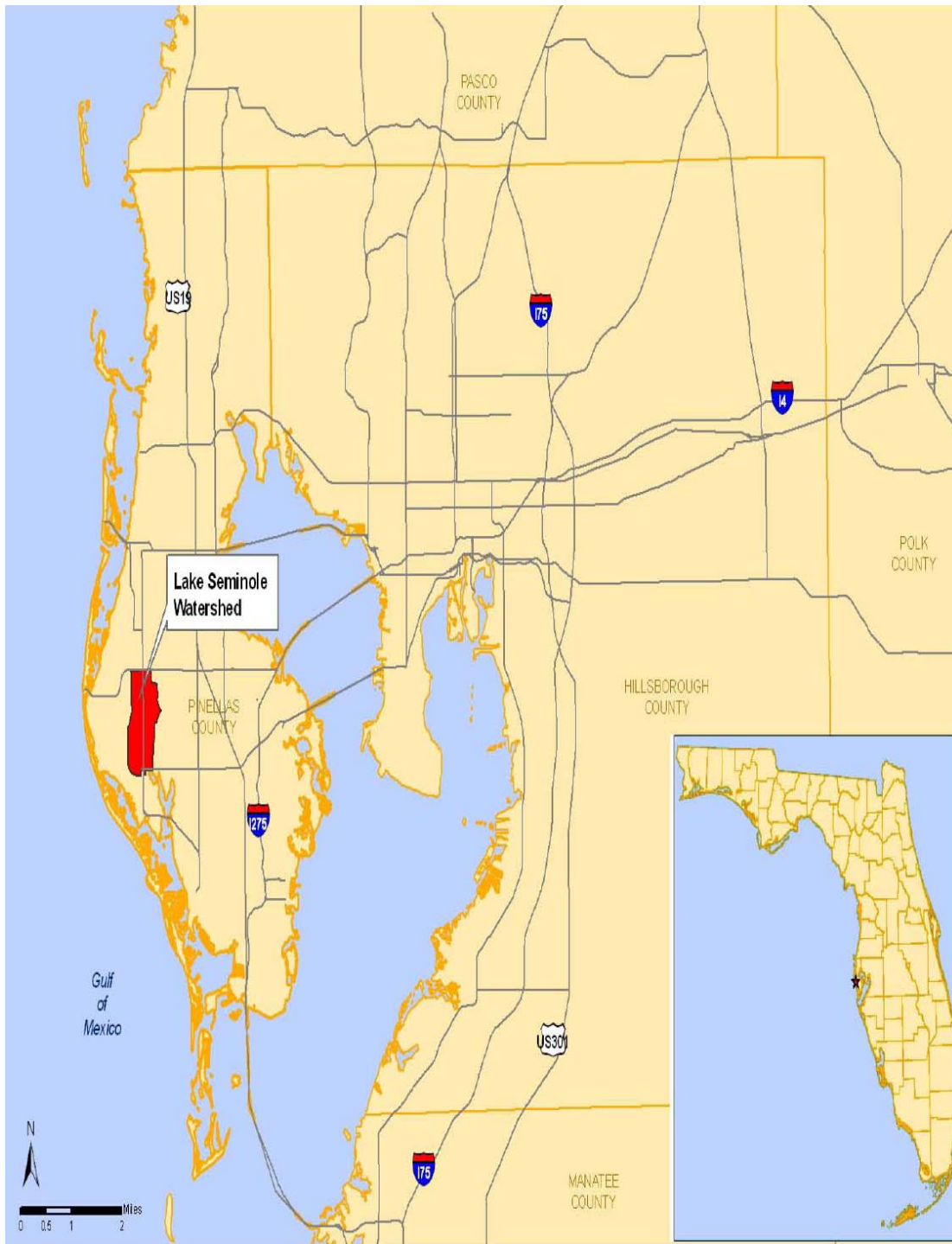
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Miles



# SHELL, JOSHUA, PRAIRIE CREEKS

- 487 mi<sup>2</sup> watershed, mainly ag
  - Class 1 potable supply waters
  - 179 WUP – 63 mgd – 89% ag
  - Impaired for conductance, chloride, and TDS
- 
- 2005 Reasonable Assurance Plan
  - SWFWMD, 16 agencies, ag - 40 signatories
  - 11 categories of Management Actions
    - Well back-plugging and WU Permitting
    - FARMS, EQIP, adopted DACS Ag BMPs
    - Land acquisition, MIL, education





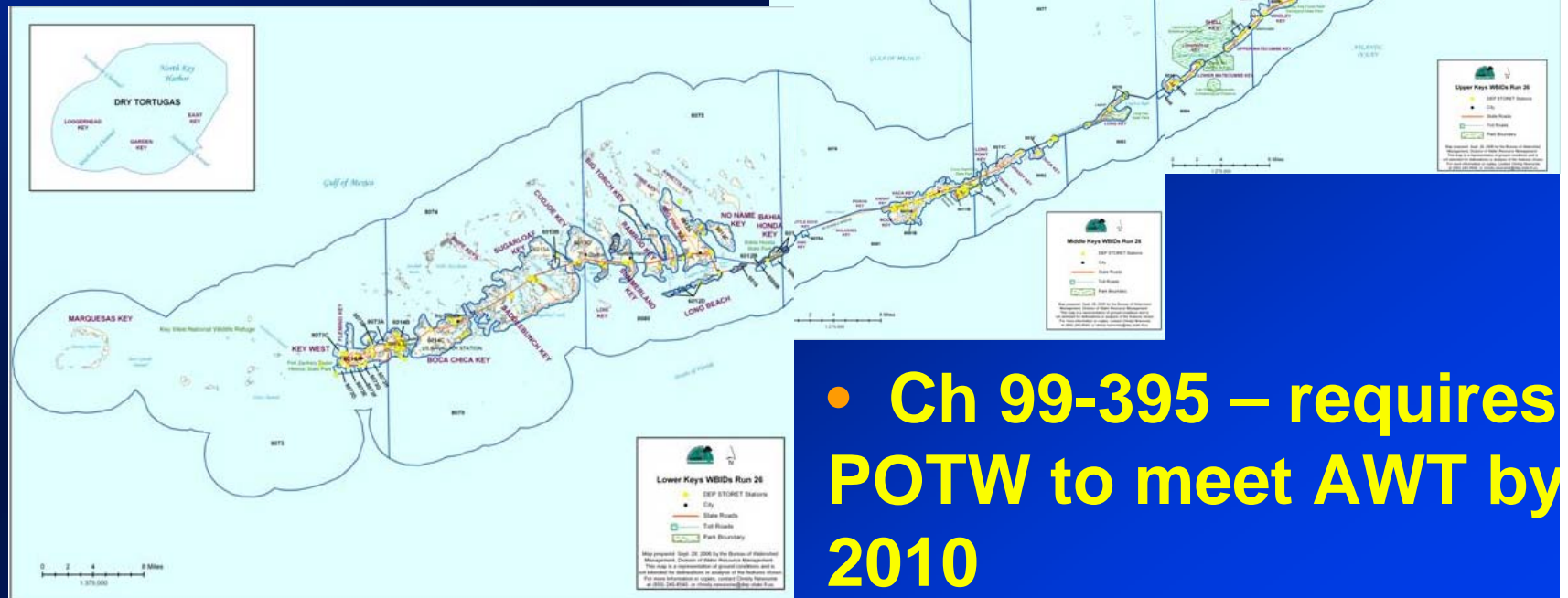
- # LAKE SEMINOLE
- 640 acres
  - Created in mid-1940s from bayou
  - 3,500 acre DA
  - 90% urban

## LAKE SEMINOLE

- **1970s – wastewater discharges out**
- **1976 - Seminole Bypass Canal**
- **1980s – eutrophication increases**
- **1987 – Grass carp for hydrilla**
- **2006 – Verified List of Impaired Waters**
  
- **1992 – Diagnostic Feasibility Study**
- **1997 – Watershed Management Plan**
- **2002 - Sediment removal/vegetation**
- **2006 – Reasonable Assurance Plan**
- **2007 – Stormwater retrofitting (alum)**
- **To date, > \$19M on restoration**

# FLORIDA KEYS

- “Impaired” for nutrients but very low TN, TP
- Unique “cultural” – Conch Republic
- Unique land to water area ratio
- Loads from outside
- Many Fed/State programs



- Ch 99-395 – requires POTW to meet AWT by 2010



# FLORIDA'S ATTEMPTS AT REASONABLE ASSURANCE

<b>WATER BODY</b>	<b>LEAD ENTITY</b>	<b>EPA APPROVAL</b>
<b>Tampa Bay</b>	<b>TB Estuary Program</b>	<b>NO</b>
<b>Middle Suwannee River</b>	<b>SR Partnership</b>	<b>NO</b>
<b>Shell, Joshua, Prairie Creeks</b>	<b>SWFWMD</b>	<b>YES</b>
<b>Lake Seminole</b>	<b>Pinellas County</b>	<b>YES</b>
<b>Florida Keys</b>	<b>DEP</b>	<b>NO in 4B, created 4G</b>

# FLORIDA CATEGORY 4 SUBCATEGORIES

SUBCATEGORY	DESCRIPTION
4A	Impaired, TMDL done
4B	Impaired, Reasonable Assurance fixes by set time
4C	Impaired, by pollution
4D	DO impaired, unknown causative pollutant
4E	Impaired by wildlife
4G	Impaired, RA fixes but time frame unknown