

# **Everglades Agricultural Area A1 Site Wetland Mitigation**

## **Project and Lands Committee February 9, 2011**

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# Wetland Mitigation

- Status of wetland mitigation requirements related to Everglades Agricultural Area (EAA) A1 Site
- Two related U.S. Army Corps of Engineers (USACE) policies
  - Mitigation requirements for restoration projects
  - Treatment of Prior Converted Croplands (PCCs) as wetlands for mitigation purposes
- Moving forward: short-term strategies

# Mitigation Requirements for Restoration Projects: CERP

- USACE has concluded that CERP is self-mitigating
  - Conclusion set forth in CERP planning documents, which were authorized by Congress
  - Wetland impacts mitigated for based on overall ecosystem benefits
  - Limited analysis of wetlands impacts included in CERP Project Implementation Reports (PIRs)

# Mitigation Requirements for Restoration Projects: Acceler8

- USACE has determined that non-USACE restoration projects require wetland mitigation (e.g., Acceler8 projects, Long-Term Plan Projects)
- Acceler8 project wetland impacts were to be offset by a system-wide mitigation ledger
  - Project benefits calculated based on Acceler8 projects operating together in a system-wide watershed approach

# Acceler8 Reservoir Wetland Impacts

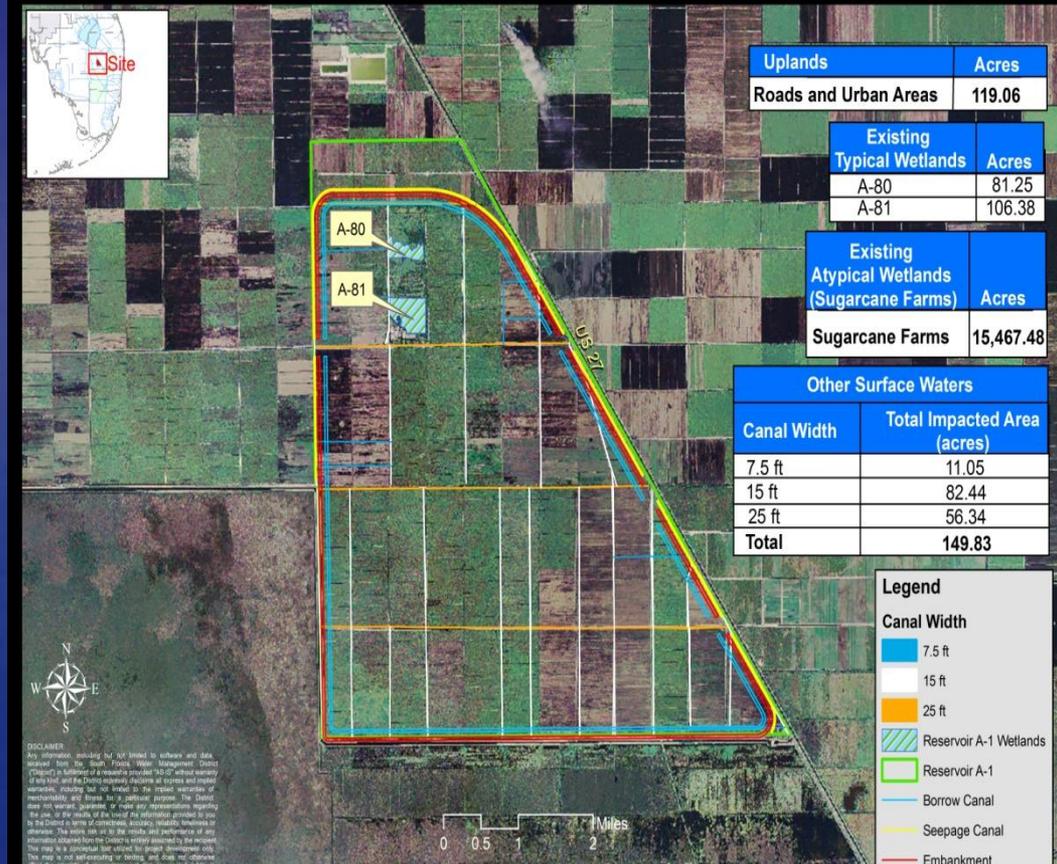
- Permit identified the following wetland impacts from construction activities:

- Atypical Wetland Impacts (farmed sugarcane fields): 15,467 acres

- Typical Wetland Impacts: 188 acres

- Canal Impacts: 150 acres

- With ledger approach, USACE calculated offsetting mitigation based on system-wide environmental lift



# Mitigation for Prior Converted Croplands

- Prior Converted Croplands
  - Wetlands that have been farmed since before 1985 and that presently lack the characteristics of wetlands
- USACE exempted PCC from regulation as wetlands under the Clean Water Act by rule in 1993
- USACE issued national policy guidance stating that converting PCC to non-agricultural use ends PCC status in April 2009
  - “Change of Use” policy
  - PCC lands changed to non-agricultural use are subject to evaluation as wetlands and mitigation is required

## Mitigation for Prior Converted Croplands (Cont.)

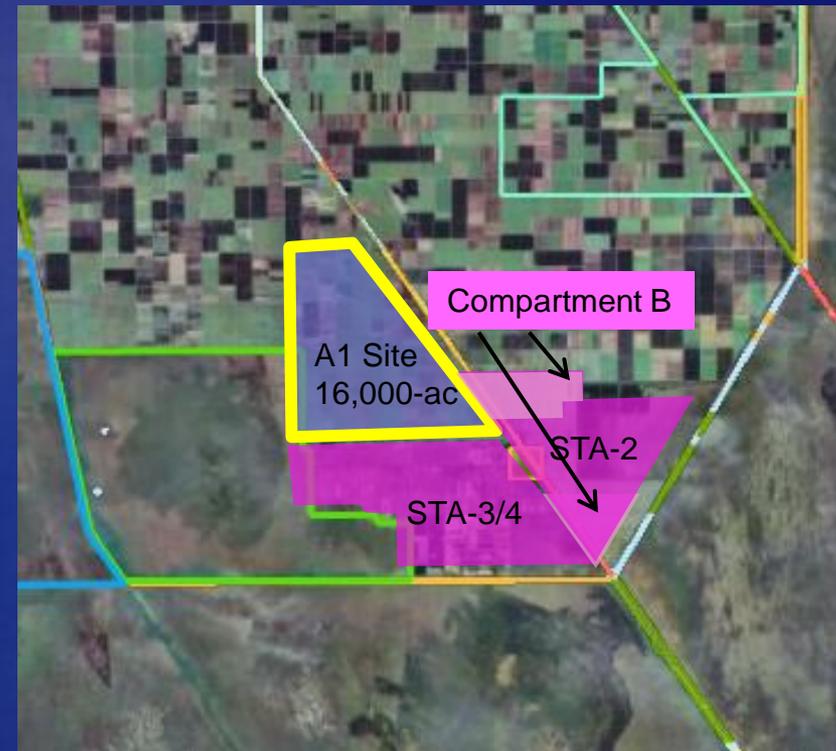
- American Farm Bureau Federation, the National Association of Homebuilders, U.S. Sugar Corp., and Okeelanta Electric sued to challenge 2009 change of use policy
- U.S. District Court for the Southern District of Florida entered final judgment ordering the USACE to cease application of the 2009 policy guidance in October 2010
  - USACE must adopt rule for policy to be applied
- Case not finished – appeal likely
- USACE continues to apply change of use policy requiring SFWMD to mitigate for restoration projects

# EAA A1 Reservoir: History and Status

- USACE 404 Permit issued July 2006
- Initiated construction of reservoir project on A1 site, but suspended and ultimately canceled due to litigation
  - To date, approximately 4,000 acres of atypical wetlands (sugarcane fields) have been impacted
- USACE and EPA have determined that mitigation ledger for Acceler8 projects is obsolete due to changes in project schedules
  - Requiring mitigation on a project-by-project basis
- July 11, 2011 permit expires and must be modified

# Where SFWMD is Today

- Proposing to build a Flow Equalization Basin (FEB) on the EAA A1 site
  - Shallow storage (~4 ft) to attenuate stormwater flows prior to discharge into STA
- Wetland impacts for the FEB are anticipated to be similar to the A1 reservoir project
- System-wide benefits and lift within project footprint will be different for FEB than reservoir



# Moving Forward

- Apply for 404 permit modification to the existing EAA A1 Reservoir permit
  - April - submit modification with conceptual FEB design
- USACE will require additional National Environmental Policy Act analysis and a mitigation plan to issue the permit modification
- Initiate discussions with USACE staff regarding mitigation requirements
  - Seek credit for downstream benefits and lift with project footprint
- Develop long-term strategy options for PCC lands



# Questions