



2011 Agribusiness Symposium

Panel Discussion on Land Use

W. Lee Dobbins, Esq.	Dean, Mead, Egerton, Bloodworth, Capouano, & Bozarth, P.A.
Michael J. Busha	Treasure Coast Regional Planning Council
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W. Lee Dobbins

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Mr. Dobbins practices in the areas of zoning, land use and commercial real estate transactions. He represents property owners in the acquisition and development of land, including negotiating complex purchase contracts, due diligence, financing, title issues, closings and obtaining zoning and land use and site plan approvals from the local municipalities. Mr. Dobbins has assisted clients in taking residential, commercial and mixed-use developments from the purchase of raw land through obtaining final development approvals. He also has experience in resolving utility issues, concurrency, debt restructuring transactions and drafting and negotiating complex commercial leases.

- Assisted the developer of a 464 acre biotech research park in annexing into the City of Port St. Lucie and obtaining a land use amendment.
- Assisted the owner of a 400 acre property in annexing into the City of Fort Pierce.
- Assisted the developer of a 90 acre industrial park in St. Lucie County with obtaining a land use amendment and zoning change.
- Obtained approvals for several commercial/residential mixed-use developments in St. Lucie County.
- Obtained approval of a 78 unit townhome community in St. Lucie County.
- Obtained approval of a 645 acre aggregates mine in western St. Lucie County.
- Obtained development approvals for two beach front residential communities in St. Lucie County.
- Obtained development approvals for a 1400 acre luxury golf community in the City of Port St. Lucie.
- Obtained development approvals for a 341 acre waterfront community in the City of Port St. Lucie.
- Obtained approvals for two Planned Unit Developments totaling 832 acres in the western annexation area of the City of Port St. Lucie.
- Assisted the developer of a ranch community in Martin County in obtaining development approvals.
- Assisted a company in obtaining approvals and incentive grants to build a new manufacturing plant in Okeechobee County.

Key Practice Areas

Commercial Real Estate
Planning, Land Use and Zoning
Utility Law

Primary Industries

Healthcare and Life Sciences
Real Estate Development

Professional and Civic Activities

- St. Lucie County Bar Association - Member
- The Florida Bar
 - Real Property, Probate and Trust Law Section - Member
 - Environmental and Land Use Section – Member
- Economic Council of Okeechobee - Member
- Leadership St. Lucie - Member
- St. Lucie County Chamber of Commerce
 - President - 2002-2003
 - Board Member - 1998-2004
- St. Lucie County Economic Development Council - Past Board Member

Charitable and Pro Bono Service

- St. Lucie County Council on Aging - Past Board Member
- St. Lucie County Education Foundation - Past Board Member

Education

Juris Doctorate: University of Florida Levin College of Law, Gainesville, Florida, *with honors*, 1993;

- University of Florida Trial Team, Member
- Associate Research Editor, University of Florida Law Review

Bachelor of Arts Degree: Duke University, Durham, North Carolina, 1990

Bar Admissions

Florida, 1993

Biographical Sketch For Michael J. Busha

Treasure Coast Regional Planning Council

Michael has lived in Southeast Florida for 33 years, raising four boys with his wife Pam. A graduate of Florida Institute of Technology, he has spent 29 years with the Treasure Coast Regional Planning Council--the last 16 as its Executive Director. In this capacity he was principal author of Council's landmark 1995 Strategic Regional Policy Plan for the Treasure Coast Region which is the regional planning council's business and investment plan for the Region's economy and the environment.

Michael has spoken from coast to coast on the topics of economic development, the land use/transportation connection, Florida's growth management system and growth management strategies to support the co-existence of agriculture and development in the countryside. He has been involved in 95 different public planning charrettes for Council over the last 21 years which have contributed to making cities like Stuart, Fort Pierce, Delray Beach, Lake Worth, North Miami Beach, and West Palm Beach more desirable places to live and invest in. Under his leadership, the Treasure Coast Regional Planning Council was awarded the first ever John Nolan Lifetime Achievement Award for Contributions to Urban Redevelopment in Florida and the 2007 Driehaus Award for Form Based Codes. In 2007, Michael received the Outstanding Leadership Award for Public Service from the Treasure Coast Chapter of the American Institute of Architects and was recently selected by the Florida AIA as the first ever public board member to the Florida AIA Board of Directors. Michael was recently named Conservationist of the Year by the Audubon Society of the Everglades. He serves as a board member on the Abacoa Partnership for Community and as President of the Treasure Coast Enterprise Fund, Inc. In August 2010, he was elected to the Martin County School Board.

HB 7207

SECTOR PLANS

Current Situation

Established as an alternative to the DRI program, the optional sector planning process is designed to promote large scale planning of areas that include at least 5,000 acres and to avoid the duplicative data and analysis that would otherwise be necessary if projects were planned as DRIs. The optional sector plan process is designed to minimize repetitive permitting while ensuring adequate mitigation of a development's impacts. DCA enters into agreements to authorize the preparation of an optional sector plan. The process involves the development of a long-term, build-out overlay and detailed specific area plans. Currently, the optional sector plan is a pilot program limited to five local governments, or combinations of local governments.

Effect of the Bill

This bill amends s. 163.3245, F.S., to remove the pilot status of the optional sector plan program and increase the minimum acreage for a sector plan to 15,000 acres, which includes all existing approved sector plans. Sector plans continue to be prohibited in designated areas of critical state concern. This bill allows the local government, prior to preparing a sector plan, to request a scoping meeting. The scoping meeting must be noticed and open to the public and is conducted by the applicable RPC with affected local governments and certain state agencies. If a scoping meeting is conducted, the RPC must make written recommendations to the state land planning agency and affected local governments on the issues requested by the local government.

This bill specifies that the sector planning process encompass two levels:

- 1) adoption of a long-term master plan (formerly a “conceptual long-term buildout overlay”) for the entire planning area as an amendment to the local comprehensive plan adopted pursuant to the state coordinated review process in s. 163.3184(4), F.S., and
- 2) adoption by a local development order of two or more detailed specific area plans that implement the long-term master plan and within which DRI requirements are waived.

This bill specifies that the long-term master plan must include maps, illustrations, and text supported by data and analysis to address and identify: land uses, water supply and conservation measures, transportation facilities, other regionally significant public facilities that may include central utilities, regionally significant natural resources based on the best available data and policies setting forth the procedures for protection or conservation, procedures and policies to facilitate intergovernmental coordination, and other general principles and guidelines including addressing the urban form and the interrelationships of future land uses and the protection, and as appropriate, restoration and management of lands identified for permanent preservation through recordation of conservation easements. This bill provides that the detailed specific area plans must be consistent with and implement the long-term master plan and must include certain specific requirements similar to the long-term master plan.

The two level planning process in this bill provides that a long-term master plan and a detailed specific area plan may be based upon a planning period longer than the planning period of the local comprehensive plan. Both the long-term master plan and the detailed specific area plan must specify the projected population within the planning area during the chosen planning period. A long-term master

plan may include a phasing or staging schedule that allocates a portion of the local government's future growth to the planning area through the planning period. Both the long-term master plan and a detailed specific area plan are not required to demonstrate need based upon projected population growth or on any other basis.

This bill specifies that when the state land planning agency is reviewing a long-term master plan it must consult with certain state and governmental agencies.

When a local government issues a development order approving a detailed specific area plan, it must provide copies of the order to the state land planning agency and the owner or developer of the property affected by the order according to the rules established for DRI development orders. This order may be appealed by the owner, developer, or state land planning agency to the Florida Land and Water Adjudicatory Commission (Governor and Cabinet) by filing a petition alleging that the detailed specific area plan is not consistent with the long-term master plan or the local government's comprehensive plan. The administrative proceeding for review of a detailed specific area plan is to be conducted according to s. 380.07(6), F.S., and the commission must grant or deny permission to develop according to the long-term master plan and may attach conditions or restrictions to its decision.

If a development order is challenged by an aggrieved and adversely affected party in a judicial proceeding pursuant to s. 163.3215, F.S., the state land planning agency, if it has received notice, must dismiss its appeal to the commission and may intervene in the pending judicial proceeding.

Once a long-term master plan becomes legally effective, this bill requires the plan to be connected to any long-range transportation plan developed by a metropolitan planning organization and the regional water supply plan. A water management district also may issue consumptive use permits for durations commensurate with the long-term master plan or detailed specific area plan while considering the ability of the master plan area to contribute to regional water supply availability and the need to maximize reasonable-beneficial use of the water resource. The permitting criteria must be applied based upon the projected population, the approved densities and intensities of use and their distribution in the long-term master plan, but the allocation of the water may be phased over the duration of the permit to reflect actual projected needs. This bill specifically provides that it does not supersede the public interest test in s. 373.223, F.S.

When a detailed specific area plan becomes effective for a portion of the planning area governed by a long-term master plan, developments within the area of the detailed specific area plan are not subject to DRI review. This bill authorizes a developer to enter into a development agreement with the local government and provides that the duration of the agreement may be through the planning period of the long-term master plan or the detailed specific area plan.

This bill allows property owners within the planning area of a proposed long-term master plan to withdraw their consent to the master plan prior to adoption by the local government, and the parcels withdrawn will not be subject to the long-term master plan, any detailed specific area plan, and the exemption from DRI review. After the local government adopts the long-term master plan, a property owner may withdraw from the master plan only if the local government approves by adopting a plan amendment.

This bill protects existing agricultural, silvicultural, and other natural resource activities within a long-term master plan or a detailed specific area plan. This bill also protects properties against downzoning, unit density reduction, or intensity reduction in the detailed specific area for the duration of the buildout date.

This bill provides that a landowner or developer who has received approval of a master DRI order may apply to implement the order by filing one or more applications to approve a detailed specific area plan.

Because the sector plan pilot program was limited to five areas, this bill allows large-scale plan amendments that were adopted by local governments on or before July 1, 2011, that meet the requirements for a long-term master plan, following a public hearing, to be subject to the sector plan provisions in statute notwithstanding any provision related to DRIs or planning agreement or plan policy to the contrary.

This bill provides that any detailed specific area plan to implement a conceptual long-term buildout overlay, adopted by a local government and found in compliance before July 1, 2011, will be governed by s. 163.3245, F.S., as amended by this bill.

RURAL LAND STEWARDSHIP AREAS

Current Situation

The Legislature originally enacted the Rural Land Stewardship Area (RLSA) Program as a pilot program in 2001.²⁵ The stated intent of the RLSA program has been the “restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida’s agriculture economy; and protection of the character of the rural areas of Florida.”²⁶ The program uses a “transfer of development rights” process by which owners of land in designated conservation areas may trade their rights from the conserved areas for the right to use land in designated development areas. In 2004, the Legislature removed the pilot status from the program and substantially amended the statute.²⁷ The statute was again amended in 2005²⁸ and 2006.²⁹ Florida currently has two rural land stewardship areas: one consisting of approximately 200,000 acres in Collier County³⁰ and another of approximately 15,000 acres in St. Lucie County. In 2009, DCA adopted two rules governing rural land stewardship areas that were objected to and cited by critics as overly restrictive and unnecessary.

Effect of the Bill

This bill creates s. 163.3248, F.S., and transfers current provisions of law relating to RLSAs into the section with modifications to make the RLSA process more workable with less state oversight. This bill states that “rural land stewardship areas are designed to establish a long-term incentive based strategy to balance and guide the allocation of land so as to accommodate future land uses in a manner that protects the natural environment, stimulates economic growth and diversification, and encourages the retention of land for agriculture and other traditional rural land uses.”

RLSAs must be at least 10,000 acres and are to be located outside of municipalities and established urban service areas. A RLSA is not required to demonstrate need based on population or any other factor. A local government or property owner may request assistance and participation in the development of a RLSA from the state land planning agency and other state agencies, the appropriate regional planning council, private land owners, and stakeholders.

This bill repeals rules 9J-5.026 and 9J-11.023, FAC, which govern the RLSA process, and specifies that rulemaking is not authorized and the provisions of this section are to be implemented pursuant to law. Plan amendments proposing a RLSA are subject to the state coordinated review process in s. 163.3184(4), F.S., of this bill, and each local government with jurisdiction over a RLSA must designate

the area through a plan amendment. This bill specifies that the local government voting requirements for designating a receiving area within a rural land stewardship area must be by resolution with a simple majority vote.

Upon the adoption of a plan amendment creating a RLSA, the local government must pass an ordinance establishing a rural land stewardship overlay zoning district, which provides the methodology for the creation, conveyance, and use of stewardship credits. This bill creates an improved process for determining the amount of transferrable stewardship credits that may be assigned within a RLSA and provides limitations on stewardship credits. In addition to stewardship credits, this bill provides other incentives to encourage owners of land within a RLSA to enter into an agreement, such as mitigation credits, extended permit agreements, opportunities for recreational leases and ecotourism, compensation for land management activities of public benefit, and option agreements for sale to public or private entities. This bill provides that the original RLSA in Collier County, which was created by a final order of the Governor and the Cabinet, receive the same incentives as newly created RLSAs.



James Sellen, MSP

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Strategic Advisor

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Baldwin Park Naval Base Urban Redevelopment Plan

When the Orlando Naval Training Center was closed in 1993 and sold to the city of Orlando, the 1,100-acre site represented huge opportunities for redevelopment. Orlando searched for consultants to develop a master redevelopment plan to turn the city's vision for the urban infill site into a reality. In a highly competitive contest, VHB was part of the winning team whose plan reflected the concept of new urbanism, including a mix of residential and commercial development, a focus on sustainability, and the use of Traditional Neighborhood Design (TND) entitlements. It also considered the features and styles of the surrounding areas to ensure the final redevelopment would fit seamlessly in the context of the larger community well into the future.

Taylor County Vision 2060 and Foley Timber Master Development of Regional Impact, Taylor County, FL

This project is a Public Private Partnership between Taylor County Board of County Commissioners and Foley Timber and Land Company. The planning process was established to guide the development of a Shared Vision Plan, an economic and market-based document by which the community communicates the future it wants for Taylor County and the actions necessary to achieve the desired future. The Master DRI was based on the Vision and included an area of over 100,000 acres.

Escambia County Sector Plan, Escambia County, FL

Principal-in-Charge. VHB was selected to assist in the completion of a state approved Optional Sector Plan for 16,000 acres located in central Escambia County. Professional planning services provided include research, analysis and mapping of the Sector, facilitation of stakeholder meetings and public visioning workshops, preparation of a Trends Analysis, development of a Conceptual Build-out Overlay and Development of a model Specific Area Plan ("SAP").

West Bay Specific Area Plan, Bay County, FL

Principal-in-Charge. Offered opportunity to relocate Panama City-Bay Co Int'l Airport, county leaders formed a partnership with landowner St. Joe Co. to pursue a planning process, known as "Optional Section Plan". VHB managed the sector plan process.

Horizon West Sector Plan, Orange County, FL

The study area included 65,000 acres in Orange and Lake Counties. The study process involved land use, transportation and environmental assessment as well as building public consensus for land use, transportation, and natural systems protection strategies as a foundation for growth management and economic development in West Orange County. The process resulted in specific recommendations for land use policy and the new Village Land Use Classification Amendment to the Orange County Comprehensive Growth Management Plan. The Horizon West study is a model for future growth management planning and received the Florida Planning and Zoning Associations 1995 Innovative Planning Award.

Mr. Sellen has extensive experience in a diversity of planning projects. His career has focused on strategic planning for local government and the private sector, planning and design of compact mixed use master planned communities and the retrofitting of highway corridors.

37 years of professional experience

Avalon Park Development of Regional Impact, Orange County, FL

Project Manager responsible for preparation and processing of a 5,700-acre Traditional Neighborhood Development project. Responsibilities included the drafting of a new TND Land Use Category and related performance standards for inclusion in the Orange County Comprehensive Plan. Project was approved September 1993. Residential development at Avalon Park is substantially complete along with the Town Center.

East Nassau Community Planning Area Master Plan, Nassau County, FL

Master Plan for 24,000 acres proposed for Terra Pointe Services, a division of Rayonier Timber Company. The property is located along the bluffs of the St. Mary’s River in Nassau County, Florida. The project consisted of a compact mixed use new community that included the designation of a conservation habitat network that created an open space system connecting the entire 24,000 acres. Mix of uses focused on a regional employment center served by rail, resort development along the St Mary’s River, the design of a transit- oriented development community to capture the potential of commuter rail service, and re-establishment of the historic town of Crandel.

Education

MS, City Planning, University of Tennessee, 1974
BA, Political Science, Public Administration, University of Miami, 1970

**Affiliations/
Memberships**

American Planning Association
Urban Land Institute, Orlando District Council
Florida Planning and Zoning Association
Council for Sustainable Florida



Urban Land **Central Florida**
Institute



CONNECTING OUR COMMUNITIES

myregion.org

CREATING A REGIONAL WATER STRATEGY FOR CENTRAL FLORIDA

Civic Architecture Recommendations

August 12, 2011

Recommendation 1 - Conservation

- **Focus on Conservation First**
 - Use Consensus on Conservation to Reinforce Trust Among Local Governments
- **Develop Memorandum of Agreements (MOA) among Local Governments in Central Florida to Achieve Conservation Measures**

Address the Following:

- Variable Rates – Tiered to Drive Conservation
- Re-Use Requirements for all New Construction
- Aggressive Public Education
- Consistent Per Capita Platform for Water Use
- Self Supply Irrigation
- Leakage Losses and Non-Revenue Water in Distribution Systems
- New Water Standards Phased in over 5-Year Period

Recommendation 2 - Create Regulatory Efficiencies

- **Redefine Water Management District (WMD) Priorities and Responsibilities in Central Florida for Water Supply Planning and Regulation**

Create a Pilot Program in which Congress of Regional Leaders (CRL) Nominates a Water Champion to Governor / DEP Secretary for his Selection to be Ratified by the WMDs to Implement the Following Recommendations:

Separate Water Supply Planning from Regulation in Central Florida

- **Establish an Inter-Agency Agreement, Based on a Selection Process Led by the Central Florida Champion, to Designate One WMD as the Lead Agency Responsible for *Water Supply Planning*, a Second WMD as the Lead Agency Responsible for *Project Implementation and Financing*, and a Third WMD Responsible for *Regulation* within Central Florida**
 - › Establish Uniform WMD Water Supply Regulations Throughout the Region
 - › Establish Uniform Models and Tools Throughout the Region
 - › Create Economic Incentives for AWS to Include 50-Year Durations

Recommendation 3 - Define Water Management Districts' Mission for Central Florida

- **Relative to Central Florida Water Supply, the Water Management Districts are “Fractured”; however, if Redirected will have an Invaluable Role in Assuring the Necessary Water Infrastructure for Central Florida’s Business and Population Growth**
- **The CRL Should Define Success for WMDs’ Water Supply Mission in Central Florida**
 - Establish Clear Statement of Mission of WMDs as Problem-Solving Organizations
 - Establish Milestones Dates for Completing Key Water Supply Tasks within the Central Florida:
 - Fall 2011 – CRL approve Recommendations and nominate Water Champion
 - January 2012 – Central Florida Water Champion ratified by Governor and WMDs’ Boards
 - January 2013 – WMDs realigned and fully functioning in accordance with Recommendations of CRL
 - WMDs should not issue Consumptive Use Permits for new water with a duration greater than 5 years until adoption of Unified Water Supply Plan for Central Florida
 - June 2014 – Unified Water Supply Plan for Central Florida Adopted
 - January 2015 – Funding for priority Central Florida water supply projects initiated (Minimum 40% State funds)

(Continued)

Recommendation 3 - Define Water Management Districts' Mission for Central Florida

- **The CRL Should Define Success for WMDs' Water Supply Mission in Central Florida (Continued)**
 - › Establish Benchmarks for WMD Performance and Monitor on an Annual Basis
 - › Benchmarks Should Consider the Following as a Minimum:
 - › Water resource development
 - › Financial support for AWS in Central Florida
 - › Consideration of a new Central Florida Coordination Area rule to establish a date for meeting AWS requirements based on strong scientific data
 - › Create One Central Florida Regional Water Supply Plan Linked to Local Governments' Comprehensive Plans (There are Currently Five Regional Water Supply Plans)
 - › All CUPs must be certified consistent with Regional Water Supply Plan
 - › Funding of water supply improvements requires Finding of Consistency with Regional Water Supply Plan
 - › Utilize the Regional Water Supply Plan process to resolve conflicts among local governments and agriculture for water supply allocation

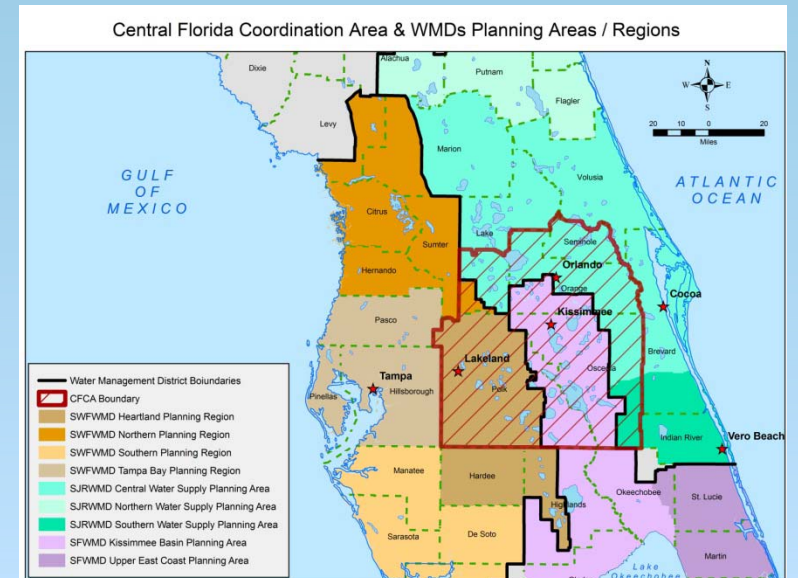
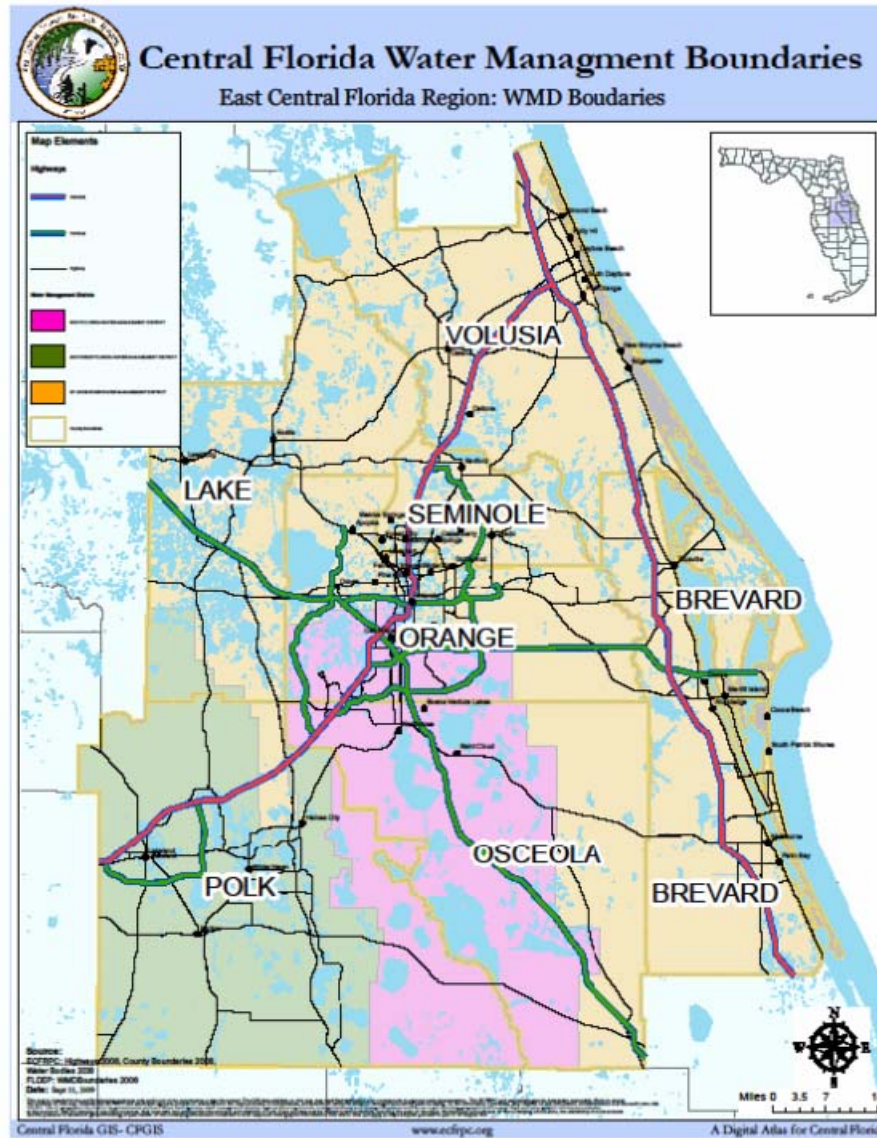


Exhibit - Central Florida Showing Water Management District Boundaries



Note: SJRWMD area shown in tan; SFWMD area shown in purple; SWFWMD area shown in green

Note: SJRWMD area in Polk County now a part of SWFWMD

Source: ECFRPC, www.cfgis.org/