Regulation, Management & Conservation of Wildlife: What Large Landowners Need to Know

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Florida Chamber 30th Annual Environmental Permitting School

July 21, 2016

Hopping Green & Sams

Environmental Permitting School
Regulation, Management & Conservation of Wildlife

Working with the Regulated Community in conserving At-Risk and Federally-listed Species

U.S. Fish and Wildlife Service
July 21, 2016

Topics for Today

1. Section 7 Consultation with NRCS on Conservation Practice Standards

2. At-Risk Species and Candidate Conservation Agreements with Assurances – e.g. Camp Blanding Multi-Species CCAA

3. Providing ESA Assurances to Non-Federal Landowners when Conducting Prescribed Burning Operations

CCAA for Multiple At-Risk Species in North Florida

Background

Discussions began at the 2012 GT CCA meeting in Alabama to revisit the Camp Blanding CCAA

Team started meeting regularly in early 2013

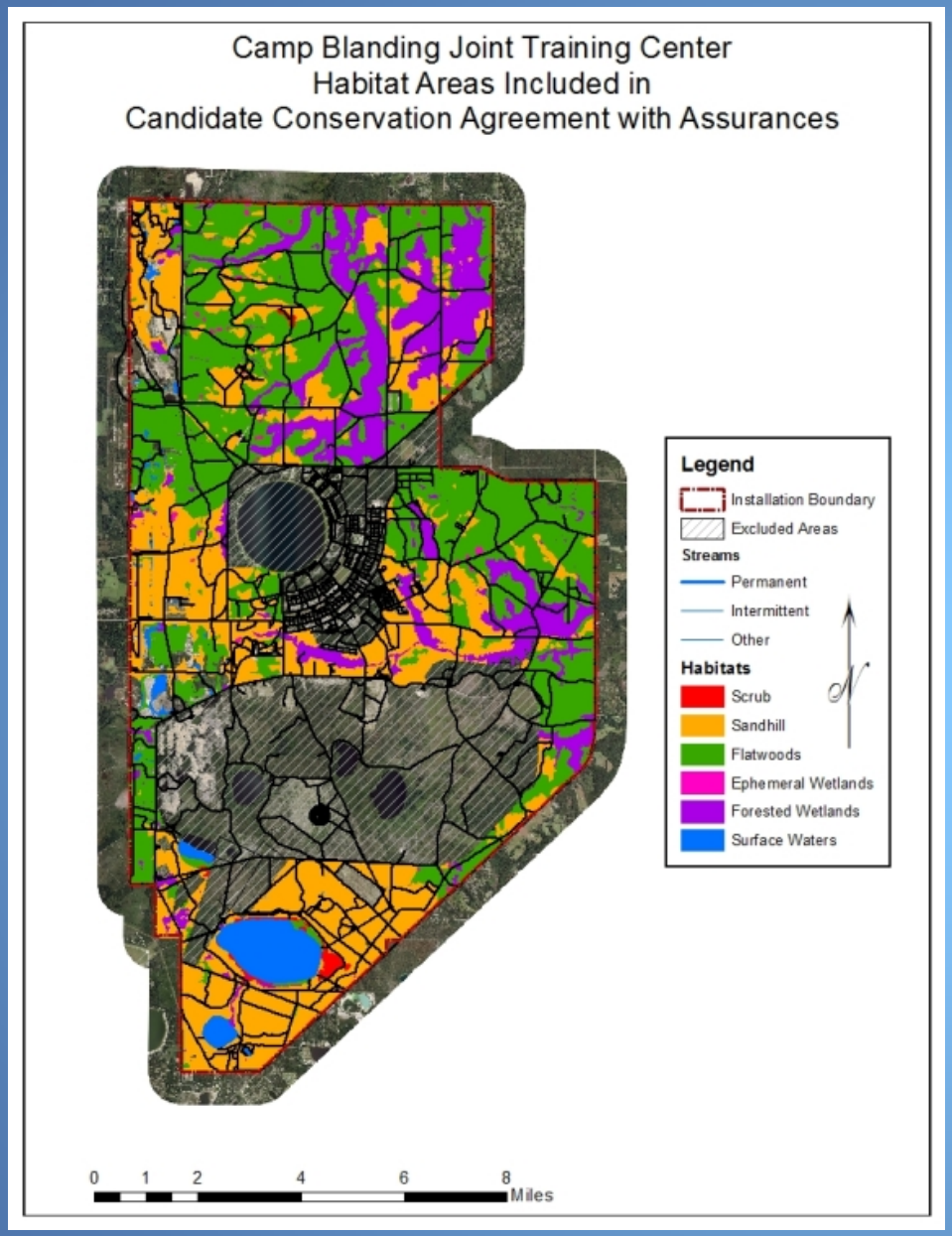
Decided to use a habitat-level versus single-species approach

First step was to define habitats and associated species to be covered under the agreement

CCAA Objectives

1. Maintain or enhance habitat quality at the Project Site
2. Provide regulatory assurances to landowner
3. Reduce or eliminate disease transmission at the Project Site
4. Reduce or eliminate exotic and invasive species at the Project Site
5. Provide for conservation that reduces the risk of listing under Federal Endangered Species Act.

These objectives will be accomplished through implementation of specific conservation actions, which are grouped by habitat type and are specific to the Project Site



Enrolled Lands

Includes 47,218 acres and encompasses six different habitat types:

- Flatwoods *(20,519 acres)*
- Sandhill *(16,983 acres)*
- Scrub *(242 acres)*
- Ephemeral wetlands *(76 acres)*
- Forested wetlands *(7,571 acres)*
- Surface waters *(123 miles of streams and 1,827 acres of lakes and ponds)*

Covered Species

- Amphibians = 2
- Birds = 8
- Butterfly = 1
- Caddisfly = 1
- Crayfish = 1
- Dragonflies = 2
- Fish = 1
- Mammals = 2
- Mussels = 2
- Reptiles = 5

Overview Of Agreement

- As required by CCAA policy, the signatories to this agreement are non-federal entities
- Therefore, the “Parties” to this CCAA are:
  - State of Florida Armory Board *(Property Owner)*
  - Florida Fish and Wildlife Conservation Commission
  - U.S. Fish and Wildlife Service
- Cooperator and concurring party: Army National Guard

Overview Of Agreement

- This CCAA is unique in that some of the candidate and at-risk species covered are also listed by FWC as state threatened or species of special concern
  - Florida Armory Board will receive regulatory assurances from both FWS and FWC
- Goal: implement conservation actions that reduce or eliminate threats to the covered species so that listing under the ESA is not necessary
- Three conservation objectives and multiple conservation actions are presented to achieve this goal

Next Steps

- Once all signatories agree on a Final Draft:
  - Final Draft is sent to FWS Regional Office and Solicitor for surname (Solicitor verifies document is “legally sufficient”)
  - CCAA Notice of Availability is published in Federal Register
- 30 day public comment period
  - FWS, in coordination with all Parties, makes any necessary changes based on public comments
- Permit Package is submitted
- Permit is signed by FWS
- Final CCAA is signed by all Parties

FWS-NRCS
Interagency Consultation Matrix

A consultation with NRCS that evaluated the potential impacts of over 130 Conservation Practices on all federally listed species that could be affected by implementing these activities on agriculture, range, and silviculture lands

Examples of Conservation Practices

Irrigation Practices
Prescribed Grazing
Various Waste Management Practices (related to Ag. Operations)
Plowing Practices
Integrated Pest Management
Nutrient Management
Forest Stand Improvement

What Does the "Matrix" Do??

Provides "Effects Determinations"

Provides Specific "Avoidance and Minimization Measures" ("BMPs") that when implemented will lead to a Not Likely to Adversely Affect" Determination

Identifies instances when further coordination with the Service is needed. (Potential for adverse effects exists)

Greatly Streamlines review of NRCS Farm Bill (Ag Act) projects

Implications to Non-Federal Landowners
(not involved in Farm Bill projects)

- Producers employ these same Practices evaluated by the Matrix
- Avoidance and Minimization measures for these practices are already identified
- Effects of practices have already been evaluated
- No need to “reinvent the wheel”
- The “Matrix” has already been used and is being used in “other” projects reviews.

Providing Threatened and Endangered Species Assurances For Prescribed Burning Projects

- Many of our listed and at risk species are fire dependent. .
- Burning results in a “Net Conservation Benefit”.
- We encourage burning & want you to “keep on doing what you are doing”!

- **Landowners, Managers, and Agencies are increasingly becoming concerned over the short term impacts (possible mortality and habitat loss) that may occur during prescribed burning.**

- **We propose a VOLUNTARY process that will provide "assurances" to landowners and managers that are conducting P-burning.**

Assurances??

- Landowners/Managers will agree to implement BMPs (avoidance and minimization measures) during burning.

- In return, the Service will provide, in writing, assurances that no liability under the prohibitions of the endangered Species Act will be incurred if mortality, unacceptable habitat loss, or other harm occurs that would result in "take" under the definitions in the Act.

- Strictly Voluntary.

  Many managers may not wish to commit to the BMPs. In which case… "business as usual"---KEEP BURNING!

- View as an Insurance Policy

Stakeholders / Partner Involvement

- We want you to be aware of this effort..
- Your comments and suggestions are important if we are to succeed.
- Review and comment on BMPs. You are the "practioncers".

State Imperiled Species Conservation Update

MyFWC.com

Collaboration and Innovation

Pro-active
Science-based
Solution-oriented

Multi-Species, Habitat-based Approach

Imperiled Species Management Plan (ISMP) Timeline

- **2011:** Biological Status Reviews (BSRs)
- **2013:** Species Action Plans (SAPs)
- **2014:** Integrated Conservation Strategies
- **2015:** Draft ISMP, Rules, & Guidelines
- **2016:** Final ISMP, Rules, & Guidelines

Species by the Numbers

	Listing Status Changes	
	Current	***Proposed***
State Threatened	14	37
Species of Special Concern	43	5
Remove from List	-	15

Note: 19 of 57 species petitioned for federal listing

ISMP Major Components

- Introduction
- Law and Policy
- SAP Summaries
- Integrated Conservation Strategies
- Implementation
- Impacts Assessment

Photo by Ron Bielefield

ISMP Policies

- Cryptic Species Policy
- Single Use Nest for State Threatened Species Policy
- Man Made Structures and State Threatened Species Policy
- Aversive Conditioning Policy

Species Conservation Measures & Permitting Guidelines

- Species-specific guidance for all species included in the ISMP
- Provides information and tools for avoiding take
- Provides options for minimization and mitigation

Photo Courtesy J. Hill

Wildlife Best Management Practices for Agriculture

- Developing practical and meaningful Wildlife BMPs
- Accounting for conservation occurring on working lands

BMP Development Approach

- Review existing water quality BMPs
- Identify practices landowners are currently using that are protective
- Document agricultural practices where species persist or thrive

MyFWC photo

Water Quality BMPs that Benefit Wildlife

- Prescribed Grazing
- Nutrient Management
- Sediment & Erosion Control Measures
- Conservation Buffers
- Wetlands and Springs Protection
- Integrated Pest Management

•Need forested buffers adjacent to streams to provide adequate shading due to intolerance of high temperatures.

• Require areas with aquatic vegetation and woody debris.

• Intolerant of sedimentation

Courtesy of Patrick O'Neil

Florida Sandhill Crane Photographs: by Peter Canavan;

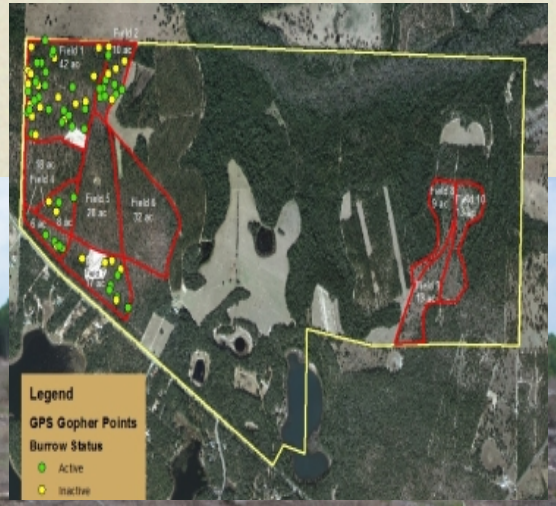
MyFWC.com

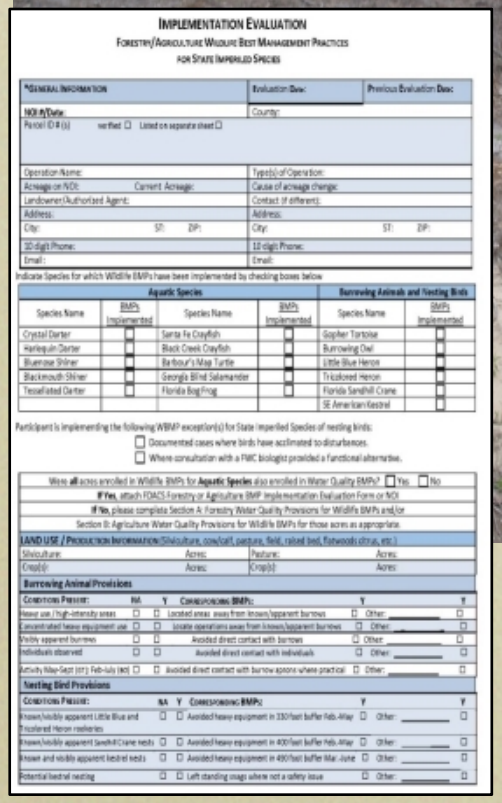
Guidelines for Wildlife BMPs

- Voluntary and non-regulatory
- Focus is on avoidance and minimization, not recovery
- BMPs are tied to management activities
- Easy for practitioners to understand and use
- Represent an alternative to Incidental Take Permits for State-listed species

Wildlife Best Management Practices

- Total Land Enrolled: 2,900,803 ac
  - Private Land: 220,423 ac
  - Public Land: 1,200,212 ac
  - Industrial Land: 1,480,168 ac
- Forestry – 2,870,257 ac
- Agriculture - 30,546 ac





IMPLEMENTATION EVALUATION

FORESTRY/AGRICULTURE WILDLIFE BEST MANAGEMENT PRACTICES FOR STATE IMPERILED SPECIES

*GENERAL INFORMATION	Evaluation Date:	Previous Evaluation Date:
NOI #/Date:	County:	
Parcel ID # (s) verified ☐ Listed on separate sheet ☐		
Operation Name:	Type(s) of Operation:	
Acreage on NOI: Current Acreage:	Cause of acreage change:	
Landowner/Authorized Agent:	Contact (if different):	
Address:	Address:	
City: ST: ZIP:	City: ST: ZIP:	
10 digit Phone:	10 digit Phone:	
Email:	Email:	

Indicate Species for which Wildlife BMPs have been implemented by checking boxes below

Aquatic Species				Burrowing Animals and Nesting Birds	
Species Name	BMPs Implemented	Species Name	BMPs Implemented	Species Name	BMPs Implemented
Crystal Darter	☐	Santa Fe Crayfish	☐	Gopher Tortoise	☐
Harlequin Darter	☐	Black Creek Crayfish	☐	Burrowing Owl	☐
Bluenose Shiner	☐	Barbour's Map Turtle	☐	Little Blue Heron	☐
Blackmouth Shiner	☐	Georgia Blind Salamander	☐	Tricolored Heron	☐
Tessellated Darter	☐	Florida Bog Frog	☐	Florida Sandhill Crane	☐
				SE American Kestrel	☐

Participant is implementing the following WBMP exception(s) for State Imperiled Species of nesting birds:

☐ Documented cases where birds have acclimated to disturbances.

☐ Where consultation with a FWC biologist provided a functional alternative.

Were **all** acres enrolled in Wildlife BMPs for **Aquatic Species** also enrolled in Water Quality BMPs? ☐ Yes ☐ No

If Yes, attach FDACS Forestry or Agriculture BMP Implementation Evaluation Form or NOI

If No, please complete Section A: Forestry Water Quality Provisions for Wildlife BMPs and/or Section B: Agriculture Water Quality Provisions for Wildlife BMPs for those acres as appropriate.

LAND USE / PRODUCTION INFORMATION (Silviculture, cow/calf, pasture, field, raised bed, flatwoods citrus, etc.)

Silviculture:	Acres:	Pasture:	Acres:
Crop(s):	Acres:	Crop(s):	Acres:

Burrowing Animal Provisions

CONDITIONS PRESENT:	NA	Y	CORRESPONDING BMPs:	Y	Y
Heavy use / high-intensity areas	☐	☐	Located areas away from known/apparent burrows	☐ Other: _____	☐
Concentrated heavy equipment use	☐	☐	Locate operations away from known/apparent burrows	☐ Other: _____	☐
Visibly apparent burrows	☐	☐	Avoided direct contact with burrows	☐ Other: _____	☐
Individuals observed	☐	☐	Avoided direct contact with individuals	☐ Other: _____	☐
Activity May-Sept (GT) Feb-July (BO)	☐	☐	Avoided direct contact with burrow aprons where practical	☐ Other: _____	☐

Nesting Bird Provisions

CONDITIONS PRESENT:	NA	Y	CORRESPONDING BMPs:	Y	Y
Known/visible apparent Little Blue and Tricolored Heron rookeries	☐	☐	Avoided heavy equipment in 330 feet buffer Feb-May	☐ Other: _____	☐
Known/visible apparent Sandhill Crane nests	☐	☐	Avoided heavy equipment in 400 feet buffer Feb-May	☐ Other: _____	☐
Known and visible apparent kestrel nests	☐	☐	Avoided heavy equipment in 400 feet buffer Mar-June	☐ Other: _____	☐
Potential kestrel nesting	☐	☐	Left standing snags where not a safety issue	☐ Other: _____	☐

Comprehensive Approaches to Addressing Imperiled Species Issues

Landscape level project

Multiple habitat types

Multiple listed species

One Habitat Conservation Plan

- **7 factors considered *before* granting a permit:**

  - ✓ The objectives of a federal recovery plan or a state management plan for the species;
  - ✓ 2. The foreseeable long range impact over time if take of the species is authorized;
  - ✓ 3. The impacts to other fish and wildlife species if take is authorized;
  - ✓ 4. The extent of injury, harm or loss of the species;
  - ✓ 5. Whether the incidental take could reasonably be avoided, minimized or mitigated;
  - ✓ 6. Human safety;
  - ✓ 7. Other factors relevant to the conservation and management of the species.

- Under the current rule, the conservation or scientific benefit must correspond directly to the species for which the permit is being issued.

- Landscape level projects often encompass multiple habitat types with multiple listed species occurring onsite

- FWC staff are exploring options for issuing landscape-level, multiple species take permits

- Conservation/Scientific benefit, survival potential, and the 7 factors must still be considered on a species-specific basis

- Under the rule, a multiple species, landscape-level permit *must* still account for the conservation benefit for *each species*.

- FWC staff are exploring options to account for the conservation benefit occurring for *each species* as part of a landscape-level project under the current rule

Rayonier

Value From The Ground Up™

Wildlife Best Management Practices (WBMPs) for Forestry – Implementation and Lessons Learned

Environmental Permitting Short Course, Orlando, FL - July, 2016

What we will talk about

- Quick overview on what WBMPs are and are not
- How one private landowner complies
- Outcome of our first WBMP survey
- Lessons learned from the process
- Challenges going forward
- Discussion, Q&A
- Fish pics at the end *(but only if you're good)*

Rayonier

Who is Rayonier?

- The 2nd largest timber REIT (Real Estate Investment Trust)
- Owns/manages ~2.6M acres in 11 states and New Zealand
- Owns/manages ~380,000 acres in FL
- Third party certified to the SFI* standard since 2001
- Publicly traded on the NYSE as “RYN”

Burrowing owl

** SFI = Sustainable Forestry Initiative; www.sfiprogram.org*

Overview of Wildlife Best Management Practices (WBMPs)

- For Florida State-listed species only
- Voluntary and non-regulatory
- For forestry and agricultural land uses only
- Not for land development
- Practical and easy to use
- Focus on avoidance/minimization
- Not intended for recovery of a species
- An alternative to Incidental Take Permits

Rayonier

Water Quality BMPs That Benefit Aquatic Wildlife

- Conventional wisdom: If you protect the water quality that a species lives in, you will protect the species
- 10 of the 16 WBMP species are aquatics
- Sediment and erosion control
- Streamside Management Zones (SMZs)
- Conservation buffers & wildlife travel corridors
- Nutrient management
- FL's Water Quality BMP manual is 116 pages

Crystal darter

Rayonier

Streamside Management Zones (SMZs)

Essentially vegetative “silt screen”

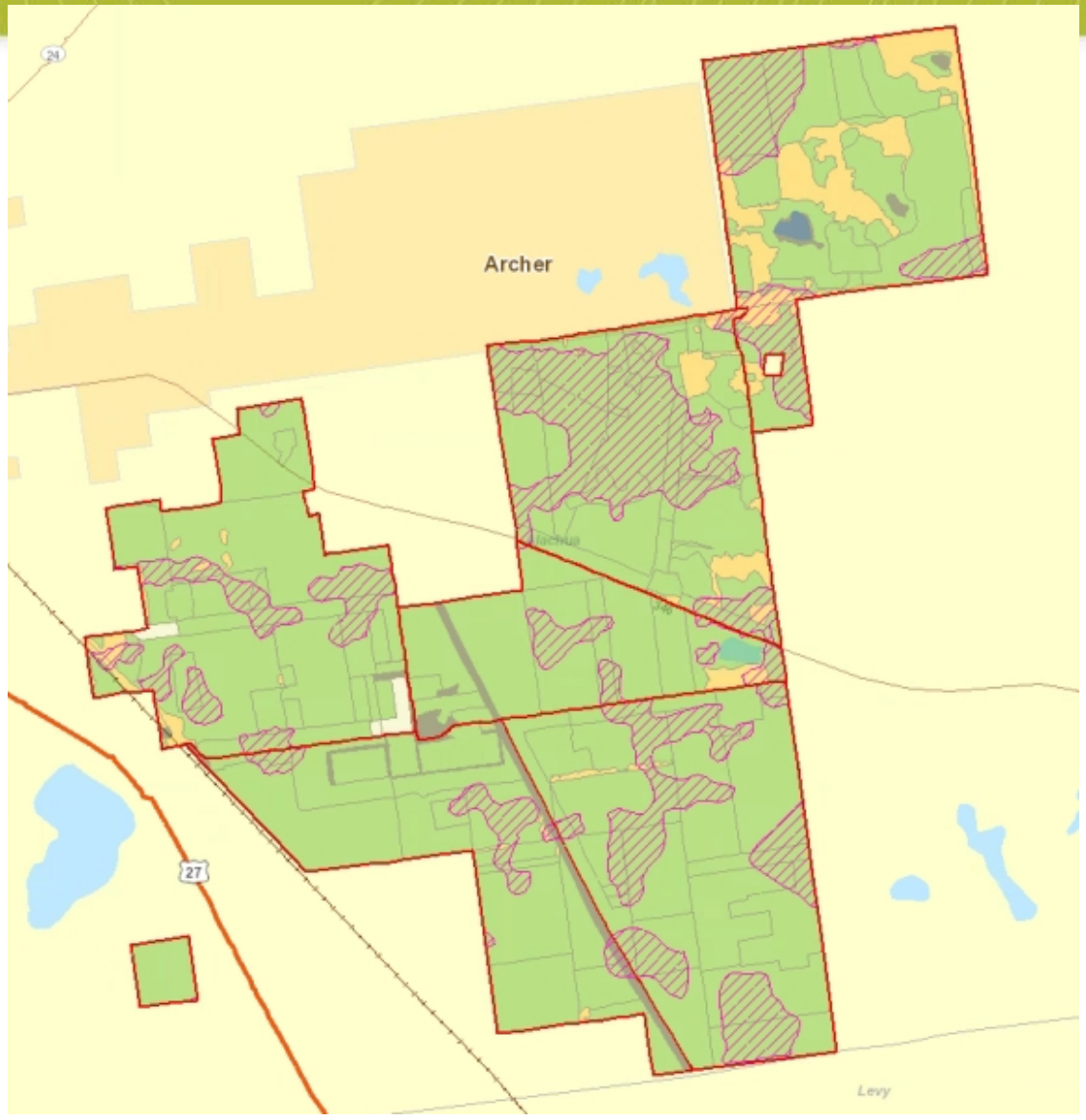
Rayonier

Wildlife Best Management Practices for Forestry (WBMPs) - How WBMPs work for Burrowing Species *(a review)*

- For 2 burrowing species (Gopher tortoise [GT] and Burrowing owl)
- Avoid heavy equipment concentrations near "known and visibly apparent" burrows;
- Burrows do **not** need to be flagged, mapped, etc.
- Avoid direct contact with burrows year round
- Avoid direct contact with burrow aprons May-Sep (GT eggs)
- Minimize heavy equipment during Sep-Oct (hatchling mortality)
- GTs have had ~350 commensal species documented in their burrows

Rayonier

Using GIS to help identify gopher tortoise (GT) habitat



- Crosshatched areas are soil types that could support GTs

- Presence or absence would then be determined by on site inspections, timber cruises, etc

Rayonier

How we comply with WBMPs

- Field staff screen for T&E before planning any field activity
- T&E species and habitat locations are layers in our GIS (Geographic Information System)
- Soils are mapped in GIS; GT soils are easy to identify
- The only WBMP related species we found that overlapped operations was the gopher tortoise (GT) – 1 yr of operations
- All harvesting crews are Master Logger trained (SFI related)
- Contractors are trained in species and habitat ID

Rayonier

Outcome of our first WBMP implementation survey

- Implementation survey date: Dec 15, 2015
- Full day field visit to multiple sites in northeast FL
- Survey party included staff from FWC, FFS and Rayonier operational personnel
- Protected species habitat was primarily gopher tortoise (GT)
- Other species were not encountered in ~1 year of ops (2015)
- Timber harvesting, site preparation and tree planting operations all protected the GT habitat (we passed)

FWC = Florida Wildlife Commission;
FFS = Florida Forest Service

Rayonier

Lessons learned

- Know the WBMPs (our guys did)
- Be sure operational staff and contractors know the species and their habitat requirements
- Use a GIS system and SOPs to protect habitat/species
- Third party certification helps (surveyors are usually biologists)
- Only use Master Logger* certified/trained loggers
- Educate the agency staff that you host about your operation
- Be proud to be part of the solution and not the problem

** SFI requires the Master Logger/similar program across all states*

Rayonier

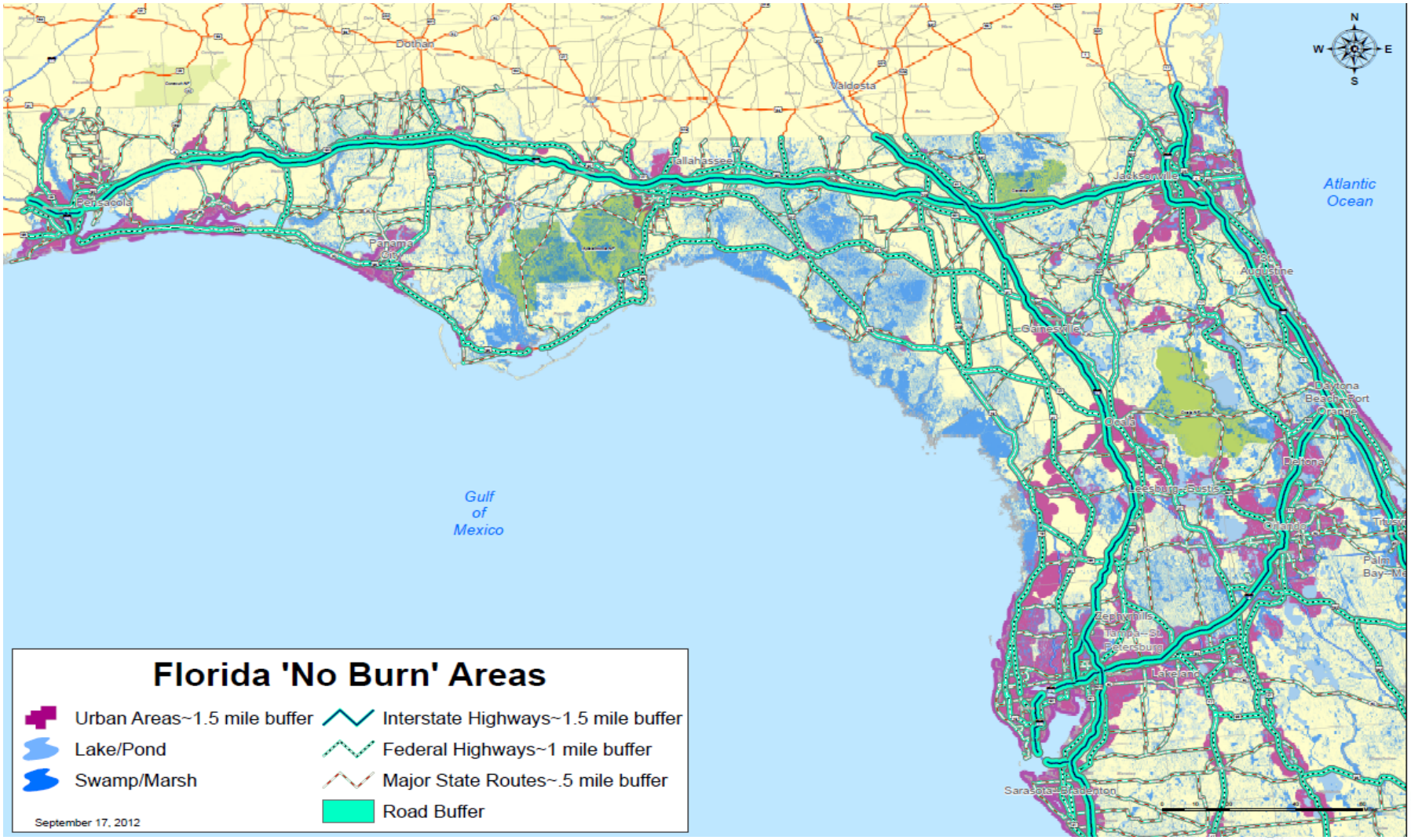
Challenges going forward

- Increasing acres enrolled w/ NOIs (Notice Of Intent)
- Engaging smaller landowners & public landowners
- Minimizing the fear of an “audit” (FWC survey)
- Education of agency staff on practices
- Lack of “accurate” occurrence data for T&E species
- Continued trend in ever increasing petitions to list species under ESA
- Controlled burning for habitat improvement (liability)

ESA = Endangered Species Act

Rayonier

Challenges for landowners – Burning & smoke management liability (internal policy)



Sometimes things are obvious…

Sometimes they are confusing (not WBMPs)…

But fish make you happy…

Big people make decent sized fish look small

26.5” redfish →

←86# wahoo

Rayonier

Wildlife BMPs

Bill Bartnick
Office of Agricultural Water Policy
July, 2016

FDACS Role in BMP Delivery

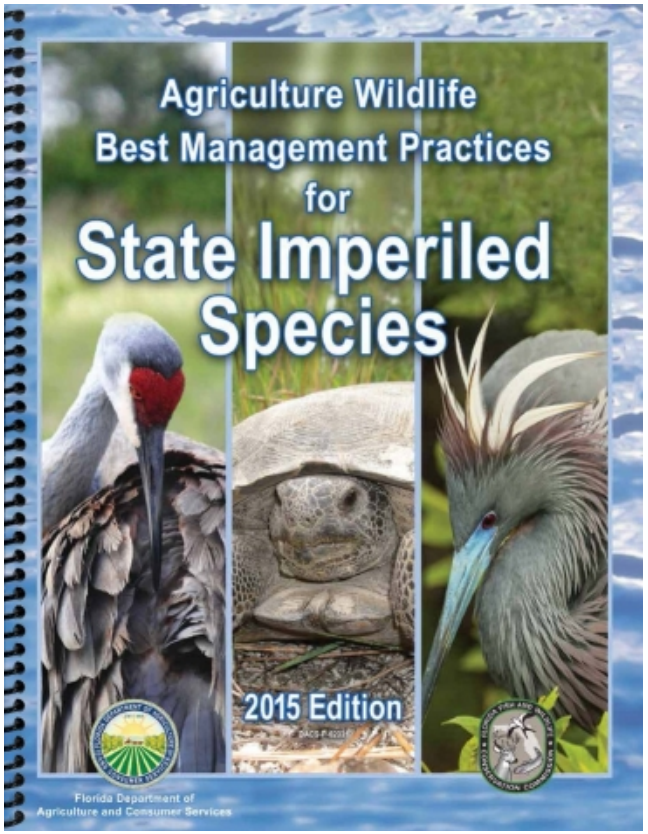
- Develop BMPs
- Adopt them by Rule
- Identify and support targeted cost-share of select BMPs
- In partnership with FWC, assist producers with BMP enrollment
- Fund research to verify the effectiveness of BMPs
- Periodically perform implementation surveys for quality assurance

Benefits of Wildlife BMP Enrollment

- Proper implementation ensures that sixteen (16) target State-Imperiled Species are not subject to incidental take permitting under FWC regulations
- Focus on minimization and avoidance, not species recovery efforts
- Dovetails very well with existing FDACS BMP manuals

Agriculture Wildlife BMPs

- Rule Chapter 5M-18, F.A.C.
- Effective date 6/17/15
- Closely mirrors Forestry Wildlife BMP manual
- Pilot project (effectiveness) in place in central Florida
- Enrollment in existing BMP manuals should satisfy provisions for aquatic State Imperiled Species



BMP Enrollment Review and Acreage Summary to Date

- Submit NOI and Checklist to FDACS and FWC
- Implement BMPs that pertain to target species
- Maintain records
- Approximately 22,400 acres enrolled via 4 NOIs
- Slow start attributed to release of produce safety rule (FSMA)

IMPLEMENTATION CHECKLIST
FLORIDA FORESTRY WILDLIFE BEST MANAGEMENT PRACTICES
FOR STATE IMPERILED SPECIES
Check All Applicable Boxes Below

Aquatic State Imperiled Species			
Species Name	My property is located within the aquatic species' known range (see imperiled species range maps[1]).	I am currently implementing all applicable WBMPs (Special Management Zones & Stream Crossing[2]).	Species is not applicable to the property.
Crystal Darter	☐	☐	☐
Harlequin Darter	☐	☐	☐
Bluenose Shiner	☐	☐	☐
Blackmouth Shiner	☐	☐	☐
Tessellated Darter	☐	☐	☐
Santa Fe Crayfish	☐	☐	☐
Black Creek Crayfish	☐	☐	☐
Barbour's Map Turtle	☐	☐	☐
Georgia Blind Salamander	☐	☐	☐
Florida Bog Frog	☐	☐	☐

State Imperiled Species - Burrowing Animals and Nesting Birds				
Species Name	Species is known to be present on the property.	I am currently implementing all applicable WBMPs for this species[1].	I do not know if this species is currently present on my property but I would implement WBMPs if the species was located in the future.	Species is not applicable to the property
Gopher Tortoise	☐	☐	☐	☐
Burrowing Owl	☐	☐	☐	☐
Little Blue Heron	☐	☐	☐	☐
Tricolored Heron	☐	☐	☐	☐
Florida Sandhill Crane	☐	☐	☐	☐
Southeastern American Kestrel	☐	☐	☐	☐

I am implementing the following Florida Forestry WBMP exception(s) for State Imperiled Species of Nesting Birds:

☐ Documented cases where birds have acclimated to disturbances.
☐ Where consultation with a FWC biologist provided a functional alternative.

[1] Consult the Florida Forestry Wildlife Best Management Practices for State Imperiled Species, FDACS-01869, January 16, 2014, as incorporated by reference in Rule 5I-8.001, F.A.C., for descriptions, range maps, and WBMP practices applicable to the species listed above. Florida Forestry WBMPs pertain only to those ongoing forestry activities that are normal and customary for the area. Florida Forestry WBMPs do not apply to tree removal activities preceding a change in land use. For example, harvesting activities that would convert silviculture lands to mining or development would not be eligible for the program.

[2] Refer to the Florida Silviculture Best Management Practices Manual (Florida Department of Agriculture and Consumer Services, Florida Forest Service) which is incorporated in Rule 5I-6.002, F.A.C.

FDACS-11319 08/14
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Implementation Assurance

- Process developed to ensure proper implementation of selected practices
- *Implementation Evaluation* form developed by both agencies for use 6 months ago
- Risk of NOI forfeiture for non-compliance
- Provides valuable feedback loop for future revisions

Fast-Track Wildlife BMP Enrollment

- All BMP manuals have a "Water Resources" section which requires the use of setbacks and buffers around jurisdictional waters
- Page 4 of Wildlife BMP manual reinforces the use of both riparian buffers and stream crossings

Ag Land Conversions

- Wildlife BMP protection must be associated with ongoing agricultural use on bona fide (classified) lands
- Wildlife BMP protection does not extend to tree removal activities as a precursor to a change in agricultural land use
- Wildlife BMP protection does not extend to converting ag lands to non-ag use(s)

Questions

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