



July 2015 Update On  
**North Florida Water Resource and Planning Issues**

Presented by:

**Nick Porter**

CELEBRATING 33 YEARS OF SERVICE,  
COMMITMENT AND EXCELLENCE.

■ ■ ■  
de la Parte & Gilbert, P.A.  
ATTORNEYS AT LAW

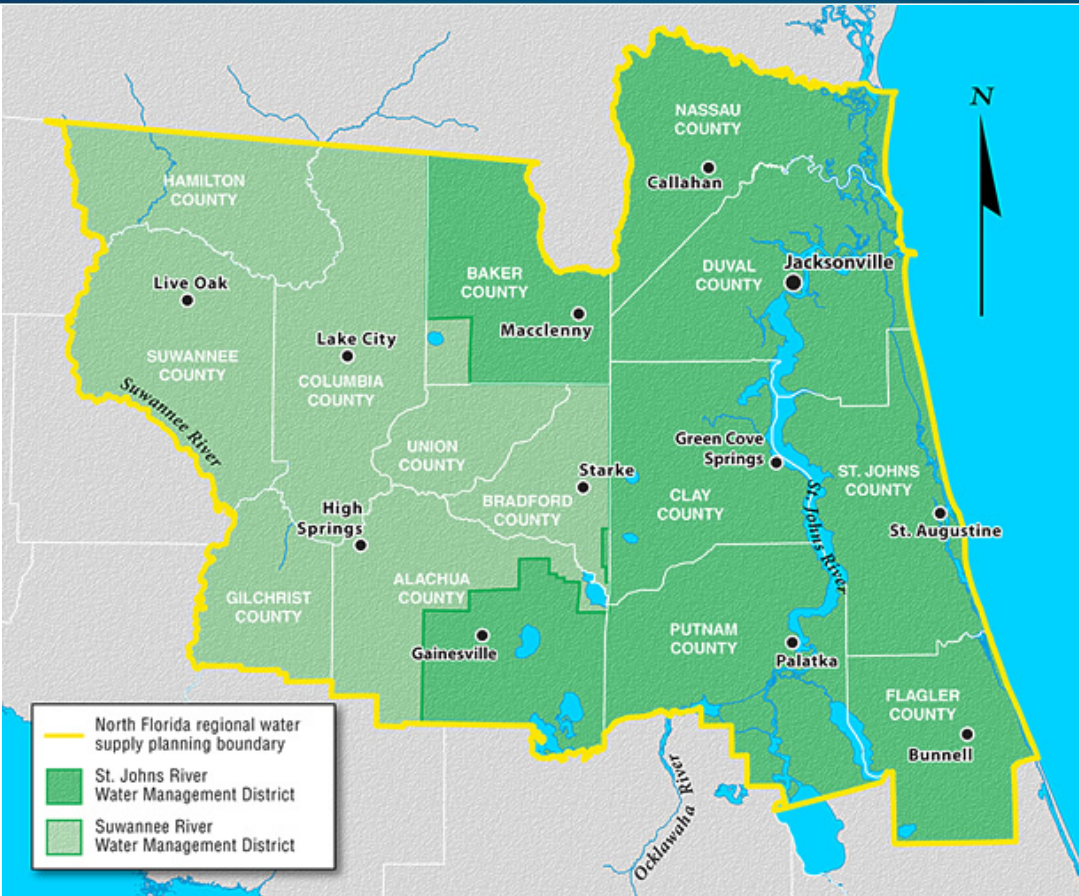
# North Florida Water Big Picture



- Divided between SRWMD and SJRWMD
- SJRWMD public supply
- SRWMD growing agriculture
- Sensitive MFL water bodies:
  - Rivers and springs in SRWMD
  - Sandhill lakes in SJRWMD
- Impact of withdrawals versus rainfall

# The North Florida Regional Water Supply Partnership

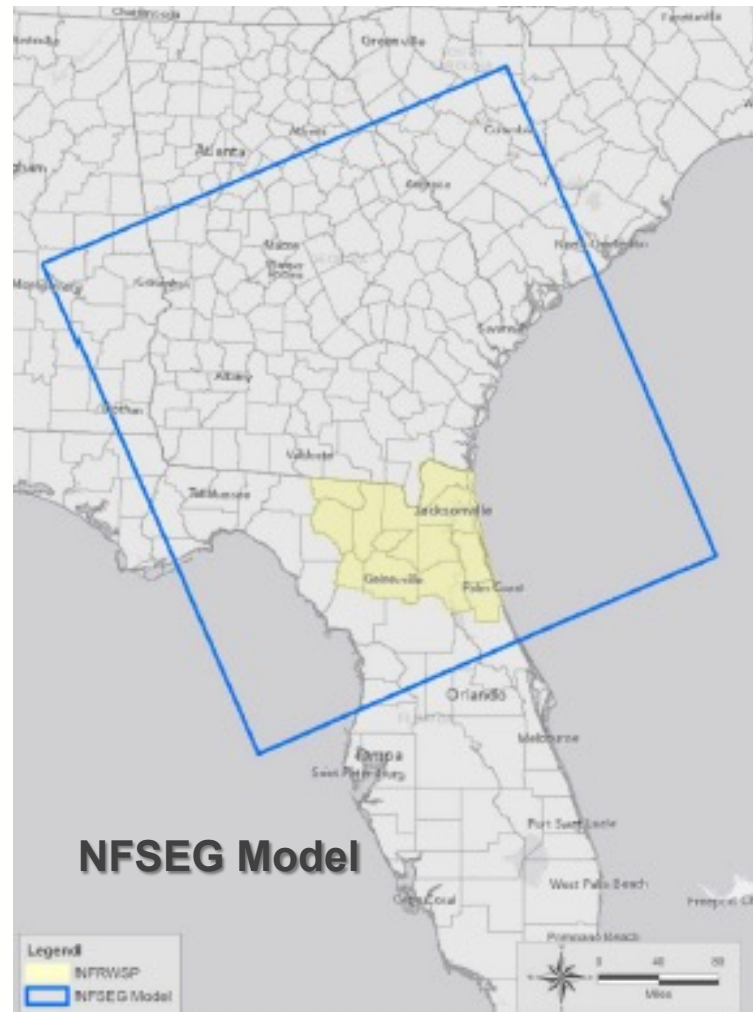
de la Parte & Gilbert, P.A.  
ATTORNEYS AT LAW



- 2011 Interagency Agreement between SRWMD, SJRWMD, and DEP to coordinate on water supply planning and CUPs
- Joint data collection
- Consistent MFL process, harm definition, environmental constraints
- Joint MFL prevention/recovery strategy
- Joint Regional Water Supply Plan
- Joint NFSEG model

# Existing and Future Groundwater Models

de la Parte & Gilbert, P.A.  
ATTORNEYS AT LAW



# MFL Legal Requirements

- **Sec. 373.042(1), Fla. Stat.:**

*“...the limit at which further withdrawals would be significantly harmful to the water resource of ecology of the area.”*

- Must be based on “best available information”
- Subject to independent peer review

- **Sec. 373.0421, Fla. Stat:**

- Agency “shall consider changes and structural alterations to watersheds, surface waters and aquifers...”
- Periodic MFL reevaluation and revision

- **DEP Rule 62-40.473, FAC:**

- 10 water resource values to be considered
- Expression of multiple flow levels defining hydrologic regime

# MFL Prevention/Recovery Strategy

- **Sec. 373.042(2), Fla. Stat.:**
  - Prevention/Recovery Strategy must be implemented if existing flow or level is below applicable MFL or projected to fall below applicable MFL within 20 years
  - Must achieve recovery to established MFL “as soon as practicable” or prevent existing flow or level from falling below established MFL
  - Must include phasing or timetable to allow provision of sufficient water supplies for existing and projected water uses, including development of additional water supplies and other measures concurrent with reduction in permitted withdrawals
  - Implemented as part of regional water supply plan
  - Can include regulatory and non-regulatory components

# 2013 Statewide DEP MFLs

- **Sec. 373.042(4), Fla. Stat.:**
  - Ch. 2013-229, Laws of Florida (SB 244)
  - DEP may adopt MFL or prevention/recovery strategy by rule
  - Technical and staff support provided by the WMD to DEP for MFL and strategy development
  - All water management districts must apply MFL and strategy adopted by DEP
  - No rule adoption by WMD necessary
  - Important in cases where water uses impact MFLs across WMD boundaries

# MFL Significance

- **Water Supply Planning**
  - Provides planning resource limitations
  - Indicates need for alternative water supplies
  - Incorporates prevention/recovery strategy
- **Water Use Permitting**
  - Establishes level at which “significant” harm occurs
  - Permitting criteria require compliance with MFLs and/or adopted prevention/recovery strategy
- **Water Users**
  - Limitation or reduction of traditional water sources
  - Required development of alternative supplies



# The MFL Water Bodies



- Lower Santa Fe and Ichetucknee Rivers and Priority Springs
  - Located in SRWMD
  - Interim MFLs adopted by DEP
  - Ratified in 2015
  - Includes Regulatory Recovery Strategy
- Clay-Putnam County Lakes
  - Lakes Brooklyn, Geneva, Grandin, Cowpen
  - Located in SJRWMD
  - Adopted in 1996
  - No recovery strategy
  - Subject to reevaluation

# Lower Santa Fe MFLs



- Within Suwannee River Water Management District
- Lower Santa Fe River – empties into Suwannee River
- Ichetucknee River – Tributary of LSFR
- 16 priority springs

# LSFR MFLs

## Development Timeline

- **2010** - SRWMD starts MFL development
- **2011** - SRWMD, SJRWMD and DEP enter Interagency Agreement
- **2011-2014** SRWMD evaluation of water resource values, surface water model development, historic baseline analysis
- **2013** - University of Florida Water Institute Peer Review
- **March 2014** – DEP Notice of Proposed Rule
- **April 2014** – Admin. challenges to MFL rules by Fla. Wildlife Federation, Ichetucknee Alliance, Paul Still
- **May/June 2014** – Administrative Final Hearing
- **September 2014** – ALJ Final Order – Approved recovery strategy, identified technical issue with MFL expression in rule
- **February 2015** – ALJ Final Order Approving MFL rule
- **June 2015** – Ratified by Legislature and signed by Governor

# Rule Expression of MFLs

(c) The minimum surface water flows for the Priority Springs are established as a percent reduction from the median baseline flow contribution of each spring to the flow at the respective river gages listed in paragraphs 62-42.300(1)(a) and (b), F.A.C.:

1. Lower Santa Fe River Priority Springs:

- a. Santa Fe Rise: Eight percent
- b. ALA112971 (Treehouse): Eight percent
- c. Hornsby: Eight percent
- d. Columbia: Eight percent
- e. Poe: Eight percent
- f. COL 101974 (Unnamed): Eight percent
- g. Rum Island: Eight percent
- h. July: Eight percent
- i. Devil's Ear (Ginnie Group): Eight percent
- j. GIL 1012973 (Siphon Creek Rise): Eight percent

2. Ichetucknee River Priority Springs:

- a. Ichetucknee Head: Three percent
- b. Blue Hole: Three percent
- c. Mission: Three percent
- d. Devil's Eye: Three percent
- e. Grassy Hole: Three percent
- f. Mill Pond: Three percent

62-42.300 Minimum Flows and Levels and Recovery and Prevention Strategies

The Department hereby establishes the following minimum flows and levels in accordance with section 373.042, F.S.

(1) Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs: The minimum surface water flows for the Lower Santa Fe and Ichetucknee River and Associated Priority Springs are provided below:

(a) The minimum surface water flows for the Lower Santa Fe at the Santa Fe River near Ft. White, FL are the following points on the flow duration curve:

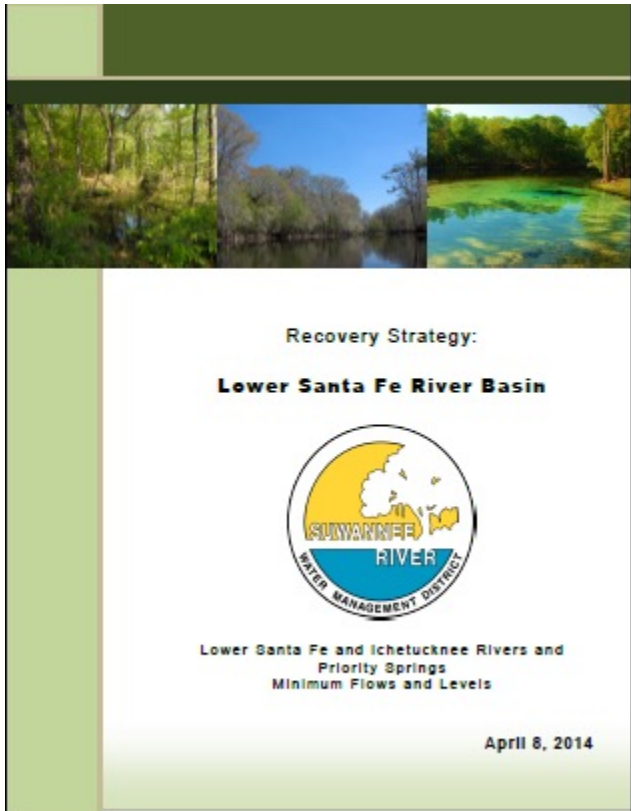
- 1. 3,101 cubic feet per second (cfs) for a flow duration frequency of five percent;
- 2. 2,523 cubic feet per second (cfs) for a flow duration frequency of 10 percent;
- 3. 1,768 cubic feet per second (cfs) for a flow duration frequency of 25 percent;
- 4. 1,214 cubic feet per second (cfs) for a flow duration frequency of 50 percent;
- 5. 920 cubic feet per second (cfs) for a flow duration frequency of 75 percent;
- 6. 749 cubic feet per second (cfs) for a flow duration frequency of 90 percent;
- 7. 672 cubic feet per second (cfs) for a flow duration frequency of 95 percent;

(b) The minimum surface water flows for the Ichetucknee River at U.S. Highway 27 are the following points on the flow duration curve:

- 1. 473 cubic feet per second (cfs) for a flow duration frequency of five percent;
- 2. 448 cubic feet per second (cfs) for a flow duration frequency of 10 percent;
- 3. 386 cubic feet per second (cfs) for a flow duration frequency of 25 percent;
- 4. 343 cubic feet per second (cfs) for a flow duration frequency of 50 percent;
- 5. 318 cubic feet per second (cfs) for a flow duration frequency of 75 percent;

# Lower Santa Fe River Recovery Strategy

de la Parte & Gilbert, P.A.  
ATTORNEYS AT LAW

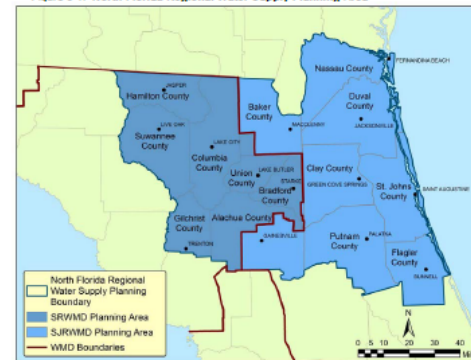


Section 6.0: Supplemental Regulatory Measures  
Recovery Strategy: Lower Santa Fe Basin  
Effective Date  
Incorporated by reference in Rule 62-42.300, F.A.C.

## 6.0 SUPPLEMENTAL REGULATORY MEASURES

1. Section 6.0 entitled "Supplemental Regulatory Measures" shall be adopted by the Department of Environmental Protection by rule pursuant to Section 373.042(4), F.S., as a component of the overall recovery strategy for the Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs MFLs. These rules shall be applicable within the boundaries of the SRWMD and that portion of the North Florida Regional Water Supply Planning Area (see Figure 6-1.) within the SJRWMD.

Figure 6-1. North Florida Regional Water Supply Planning Area



2. These rules provide additional criteria for review of consumptive use permit applications prior to the completion of the North Florida Southeast Georgia Regional Groundwater Flow Model and development of long-term recovery measures in the North Florida Regional Water Supply Plan (NFRWSP). Prior to the completion of the North Florida Southeast Georgia Regional Groundwater Flow Model, each District shall apply the best available modeling tools to evaluate permit applications and their potential impact to the MFLs in the Lower Santa Fe River Basin. Upon completion of the North Florida Southeast Georgia Regional Groundwater Flow Model, the MFLs and these additional regulatory criteria shall be re-evaluated pursuant to Rule 62-42.300(1)(e), F.A.C.

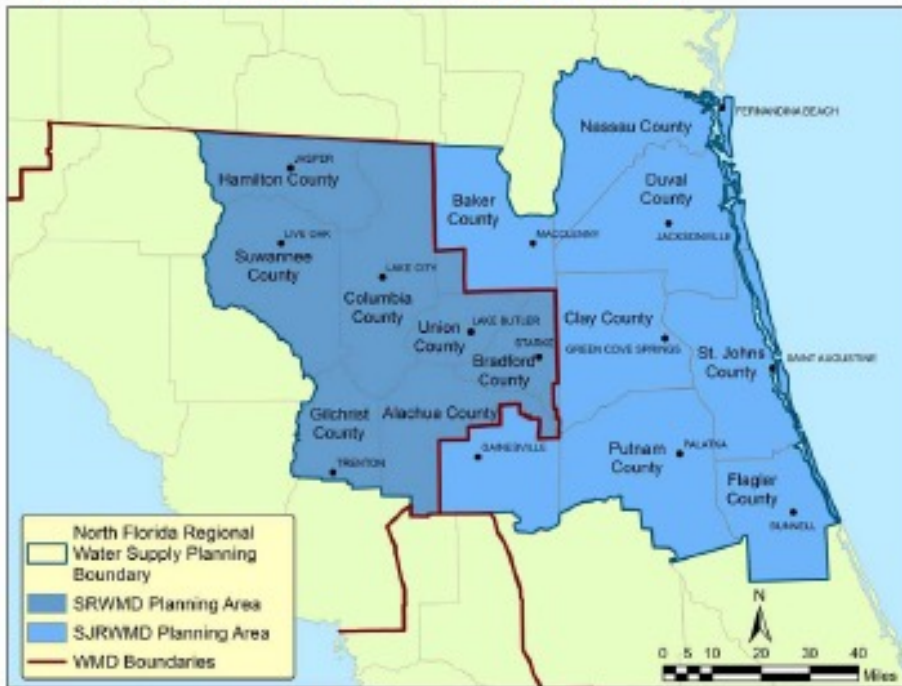
1

Attachment D

- **Regulatory Component** – Adopted by rule by DEP
- **Non-Regulatory Strategy** – Approved by SRWMD Governing Board

# MFL & Strategy Reevaluation

Figure 6-1. North Florida Regional Water Supply Planning Area



## Proposed MFL and strategy are an interim step

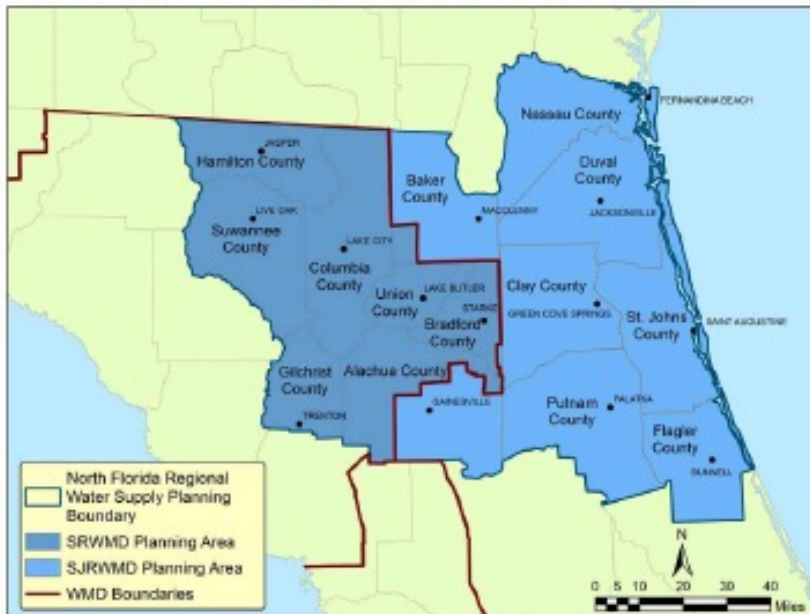
- Phased process
- Time to develop improved tools
- Time to address remaining concerns and coordinate

### •Rule 62-42.300(1)(e), FAC:

- MFLs will be reevaluated upon completion of North Florida Southeast Georgia Regional Groundwater Flow (NFSEG) Model
- MFL and strategy will be readopted no later than December 31, 2019

# LSFR Regulatory Recovery Strategy

Figure 6-1. North Florida Regional Water Supply Planning Area



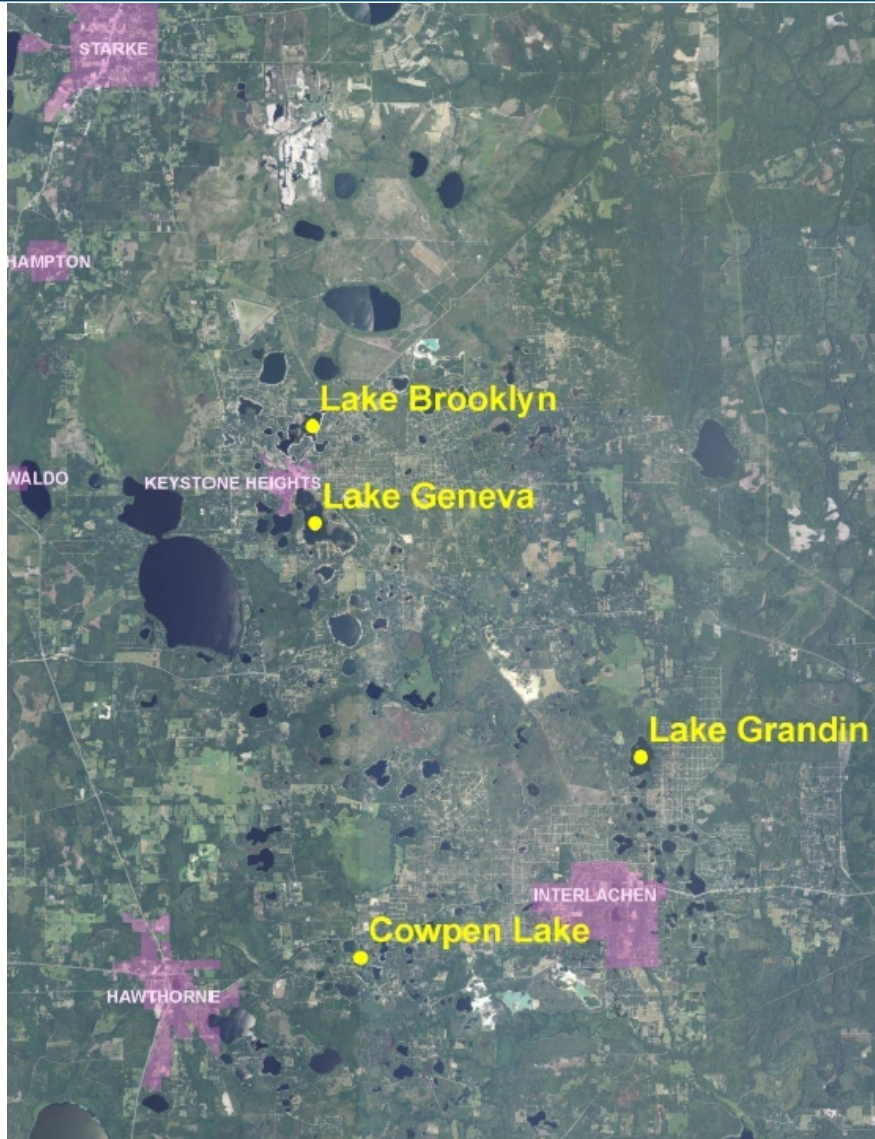
- Applies in North Florida Regional Water Supply Planning Area
  - Impact evaluation based on “best available” information
  - **New water uses** – All impacts to MFL water bodies must be offset
  - **Renewals with increases** – Offset effect of increase and limited to 5-year permit
- 
- **Renewal with no increase** - 5-year permit unless MFL impacts offset
  - **Existing permits** – Not subject to modification
  - **Proportional impacts** – Users only responsible for proportionate share of impact to MFL water body
  - **Georgia impacts** – Fla. users not responsible for impact of Georgia use

# Administrative Challenge to MFL & Strategy

- **Challengers** – Fla. Wildlife Federation, Ichetucknee Alliance, Paul Still
- **Respondents** – DEP and SRWMD
- **Issues Raised by Challengers:**
  - Validity of Statement of Estimated Regulatory Costs
  - Validity of SRWMD approval of non-regulatory aspects of strategy
  - Alleged ambiguity in MFL language
  - Whether recovery strategy is restrictive enough, particularly for existing users
    - Whether entirety of strategy has to be adopted as rule by DEP
- FWF dismissed from case for lack of standing
- Final Order from ALJ identified technical flaw in MFL expression, approved recovery strategy
- Ratified by legislature, signed by governor, and took effect in June 11, 2015



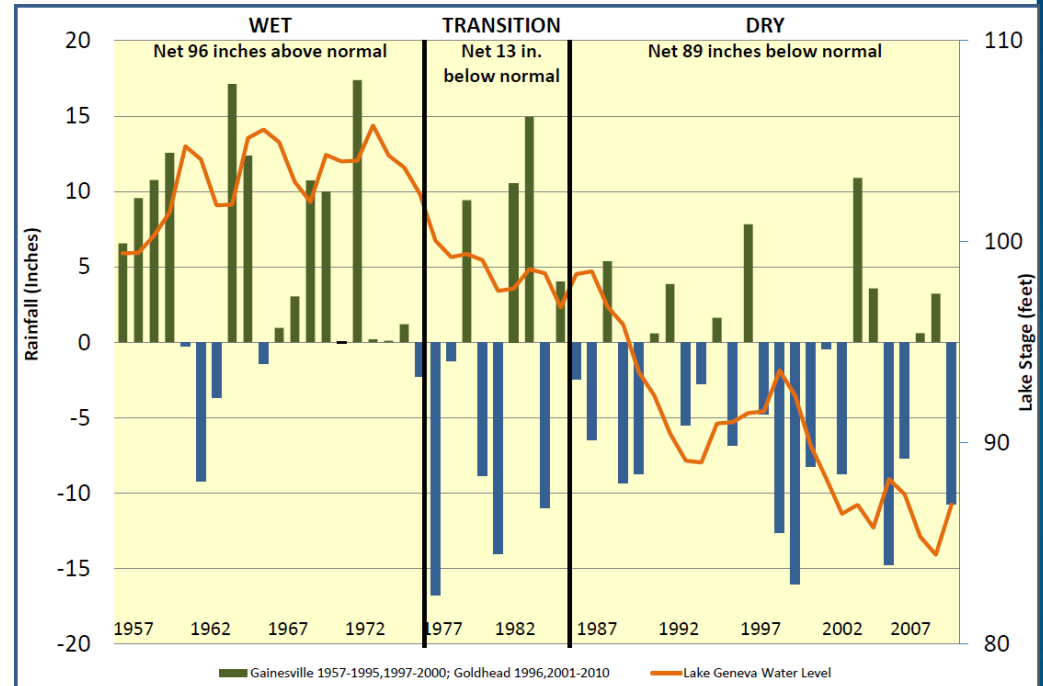
# Clay-Putnam Lake MFLs



- Lakes Brooklyn, Geneva, Grandin, Cowpen
- Located in SJRWMD
- Adopted in 1996 – among the first MFLs adopted by SJRWMD
- Technically in violation - no recovery strategy
- Sandhill lakes with wide fluctuations in level
- Subject to reevaluation

# Clay-Putnam Lake MFL Reevaluation

- Current MFL technical viability in question
- Taking long-term rainfall into account
- Since 1996, SJRWMD has significantly changed MFL methodology



- Applying new NFSEG groundwater model to reevaluation
- Developing prevention/recovery strategy based on new MFL
- Coordination with SRWMD and DEP
- Who will adopt the revised MFL?

# North Florida Regional Water Supply Plan – Next Steps

- **August 2015** – Conservation potential estimates
- **October 2015** – Finalize projected 2015-2035 water demands for each use category
- **Winter 2015** – Recommendation on water resource assessment
- **Winter 2015** – NFSEG model completion?
- **Spring 2016** – Water supply and resource development project options
- **2016** – Incorporation of MFL prevention/recovery strategies
- **Fall 2016** – Presentation of draft RWSP document

# Next Steps: Important Considerations

- **How much do groundwater withdrawals impact flow in the MFL water bodies?**
- **Improve withdrawal estimates – lack of historic data**
- **Collection of additional hydrologic and ecological data**
- **How will WMDs achieve consistency in permitting and planning?**
- **How are impacts apportioned?**
- **How will AWS projects be developed and paid for?**
- **What portion of impacts come from Georgia withdrawals?**
- **How will Georgia be incorporated into process?**