

# RESTORE Act

**Resources and Ecosystems Sustainability,  
Tourist Opportunities, and Revived  
Economies of the Gulf Coast States Act**



Lisa B. Beever, PhD, AICP  
Estero Bay Agency on Bay Management  
April 13, 2015

**Deepwater Horizon Disaster was  
a Clean Water Act violation**



**April 21, 2010**

# Types of Enforcement Actions

- **Civil Administrative Actions** are non-judicial enforcement actions taken by EPA or a state under its own authority. These actions do not involve a judicial court process. An administrative action by EPA or a state agency may be in the form of a notice of violation or an order (either with or without penalties) directing an individual, a business, or other entity to take action to come into compliance, or to clean up a site.
- **Civil Judicial Actions** are formal lawsuits. They are filed in court, against persons or entities that have failed to comply with statutory or regulatory requirements, etc.
  - These cases are filed by the U.S. Department of Justice on behalf of EPA.
  - In regulatory cases they may be filed by the State's Attorneys General on behalf of the states.
- **Criminal Actions** can occur when EPA or a state enforce against a company or person through a criminal action. Criminal actions are usually reserved for the most serious violations, those that are willful, or knowingly committed. A court conviction can result in fines or imprisonment.

# Post-Oil Spill Restoration Programs

<b>Natural Resource Damage Assessment</b>	<b>RESTORE Act</b>	<b>National Fish and Wildlife Foundation</b>	<b>National Academy of Sciences</b>	<b>North American Wetlands Conservation Fund</b>
Oil Pollution Act	CWA Civil Penalties	Criminal settlement: BP, Transocean	Criminal settlement: BP, Transocean	Criminal settlement: BP
Restore natural resources injured by spill	Ecological and economic restoration 5 programs supporting restoration	Remedy harm to resources injured by spill	30-year program focused on human health and environmental protection	Focused on wetlands restoration and conservation projects
\$1 B to date	\$800M to date (+\$11B)	\$2.544 B	\$500 M	\$100 M

Source: Environmental Law Institute

## Clean Water Act Penalties

20% to the Oil Spill Liability Trust Fund

## 80% to the Gulf Coast Restoration Trust Fund

1

### Direct Component

### Treasury Administered

35% equally divided among the five Gulf Coast States for ecosystem restoration, economic development, and tourism promotion

LA

- 30% to coastal parishes based on allocation formula
- 70% to the state

FL

- 75% to most affected counties by oil spill
- 25% to the other impacted coastal counties based on allocation formula

MS

Department of Environmental Quality

AL

Alabama Gulf Coast Recovery Council

TX

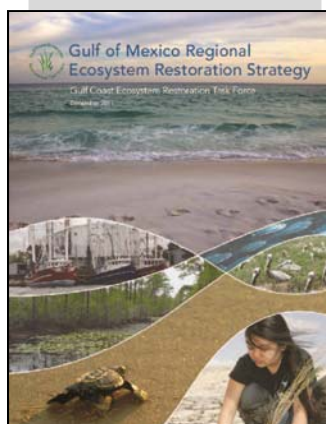
Texas Governor's Office

2

Comprehensive Plan Component

Gulf Coast Ecosystem Restoration Council Administered

30% + interest earned from Trust Fund Investments for restoration activities under the Comprehensive Plan

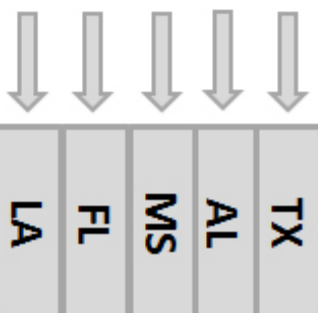


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Spill Impact Component

Gulf Coast Ecosystem Restoration Council Administered

30% divided among the five Gulf Coast States according to a formula to implement State Expenditure Plans, which require approval by the Council



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NOAA RESTORE Act Science Program

NOAA Administered

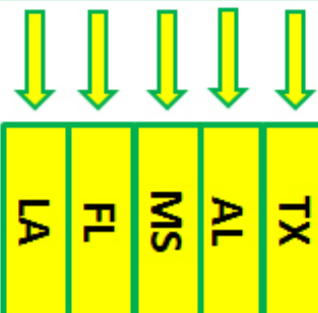
2.5% + interest earned from Trust Fund Investments for a science, observation, monitoring, and technology program

5

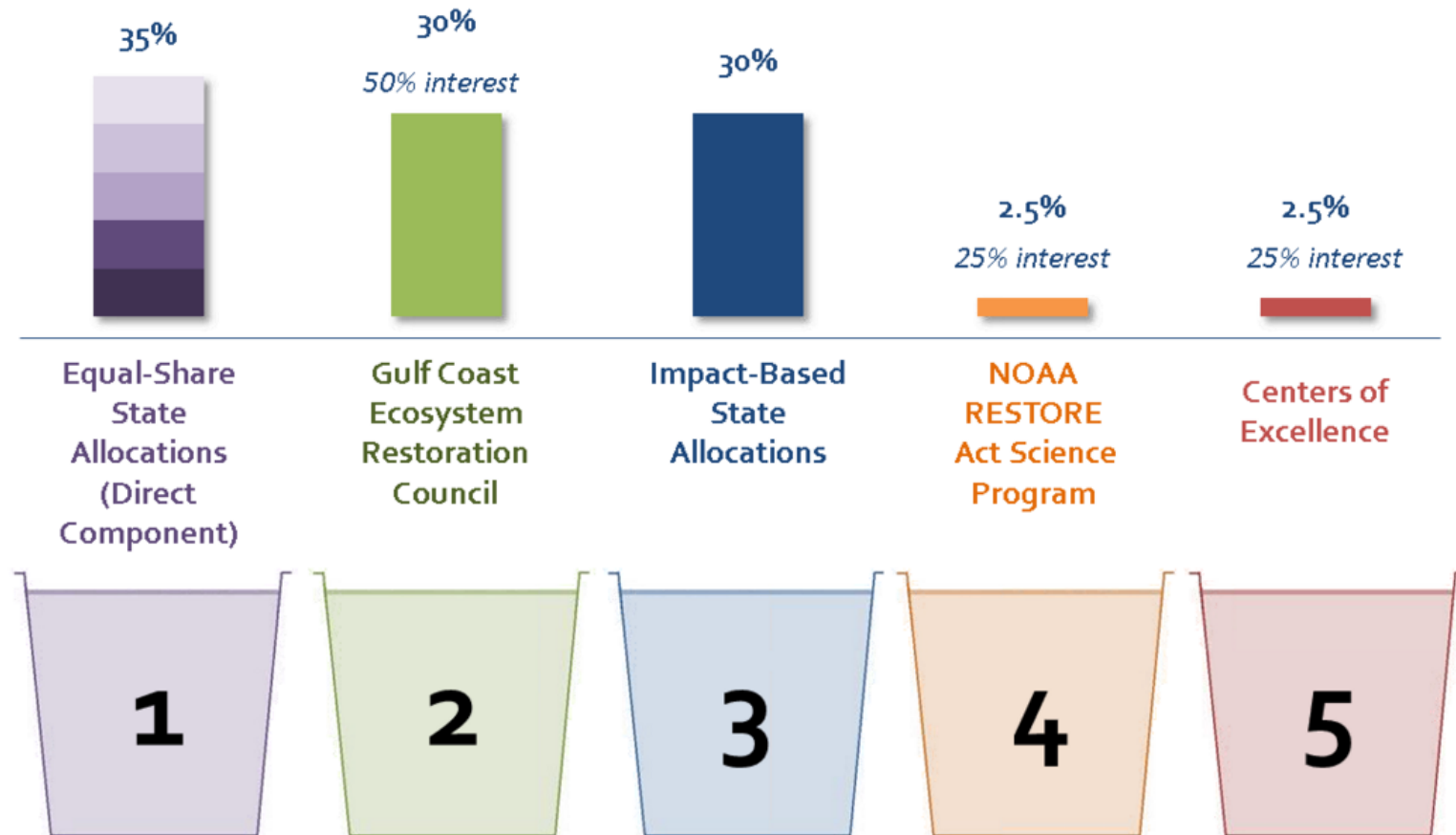
Centers of Excellence Research Grants Program

Treasury Administered

2.5% + interest earned from Trust Fund Investments for research on the Gulf Coast Region



# RESTORE Act Buckets of Funding



**Give Money to States in Equal Shares.**

Just over one-third of the funds will go directly to the five Gulf states in equal shares.

Funds can be used for ecological and economic restoration. Each State must submit a multi-year implementation plan to the Department of the Treasury before it receives funds.

**Give Money to a Gulf-wide "Restoration Council."**

The RESTORE Act creates a Gulf Coast Ecosystem Restoration Council composed of federal officials and the governors of the Gulf states.

Funds are to be used to carry out a science-based plan to restore and protect natural resources.

**Give Money to States Based on Oil Impacts.**

Almost one-third of the funds will be divided among Gulf states according to how severely they were impacted by the oil spill.

Funds can be used for ecological and economic restoration. Each State must submit a funding plan to the Restoration Council for approval before it receives funds.

**Give Money to Fund Long-Term Research and Monitoring of the Gulf.**

The Act creates a program to fund research, observation, and monitoring to support long-term sustainability of Gulf ecosystems and fisheries.

Funding priority will be given to integrated, long-term projects.

**Give Money to "Centers of Excellence" for Gulf Coast Research.**

Centers of Excellence will be established to further Gulf Coast science, monitoring, and technology.

Competitive grants will be made to non-governmental entities and consortia (including universities) to establish the centers.

# Transocean Deepwater, Inc.

February 2013

- Criminal Penalties: \$400 million
  - \$150 million to NFWF over 2 years
  - \$150 million to National Academy of Sciences over 4 years
- Civil Penalties: \$1 billion
  - \$200 million to Oil Spill Liability Trust Fund
  - \$800 million to RESTORE Act

# British Petroleum

- Standard maximum penalty: \$1,000 per barrel X 3.19 million barrels = **\$3.5 billion**
- Maximum penalty for “gross negligence” or “willful misconduct”:
- \$4,300 per barrel X 3.19 barrels = **\$13.7 billion**

# BP Exploration & Production, (BPXP)

March 27, 2015

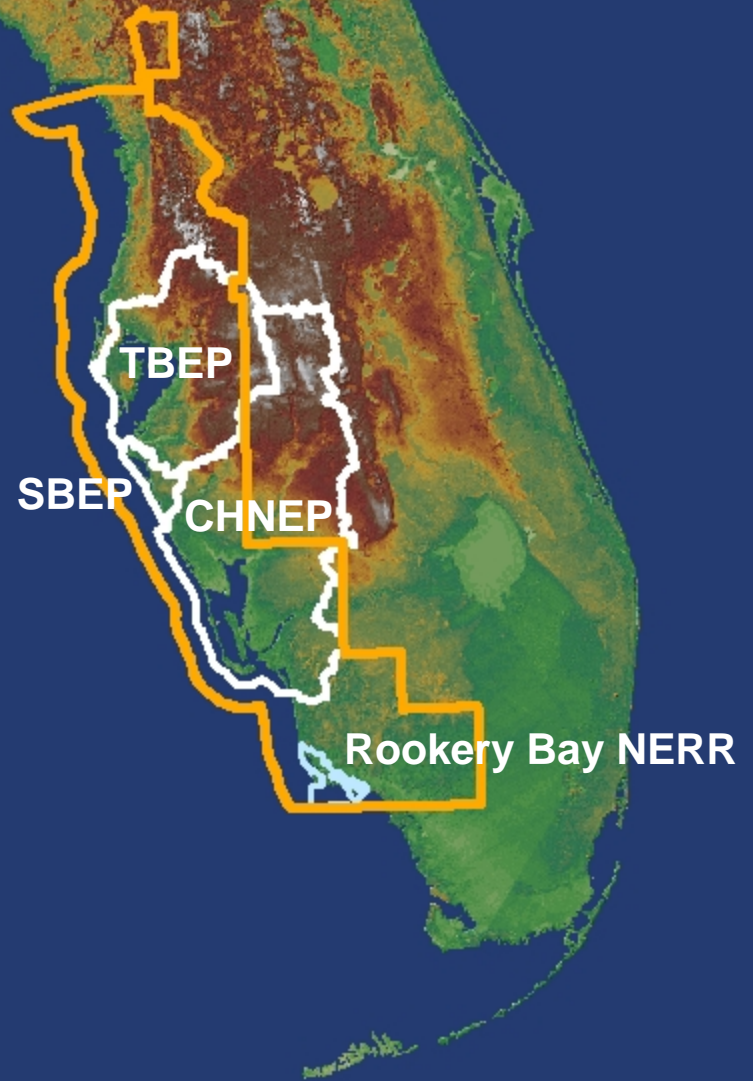
- Brief Submitted

- <https://www.thestateofthegulf.com/media/1515/2015-03-27-bpxps-penalty-phase-post-trial-brief.pdf>
- More than \$2.3 billion would drain US unit of cash
- Faces up to \$13.7 billion
- BP reiterated it expects to pay more than \$40 billion in oil spill costs. That includes \$14 billion spent to stop and clean up the spill.

# Gulf-wide Restoration

- <http://www.restorethegulf.gov/release/2015/03/12/council-selected-restoration-component-proposals-and-context-reports>

*Gulf of Mexico*

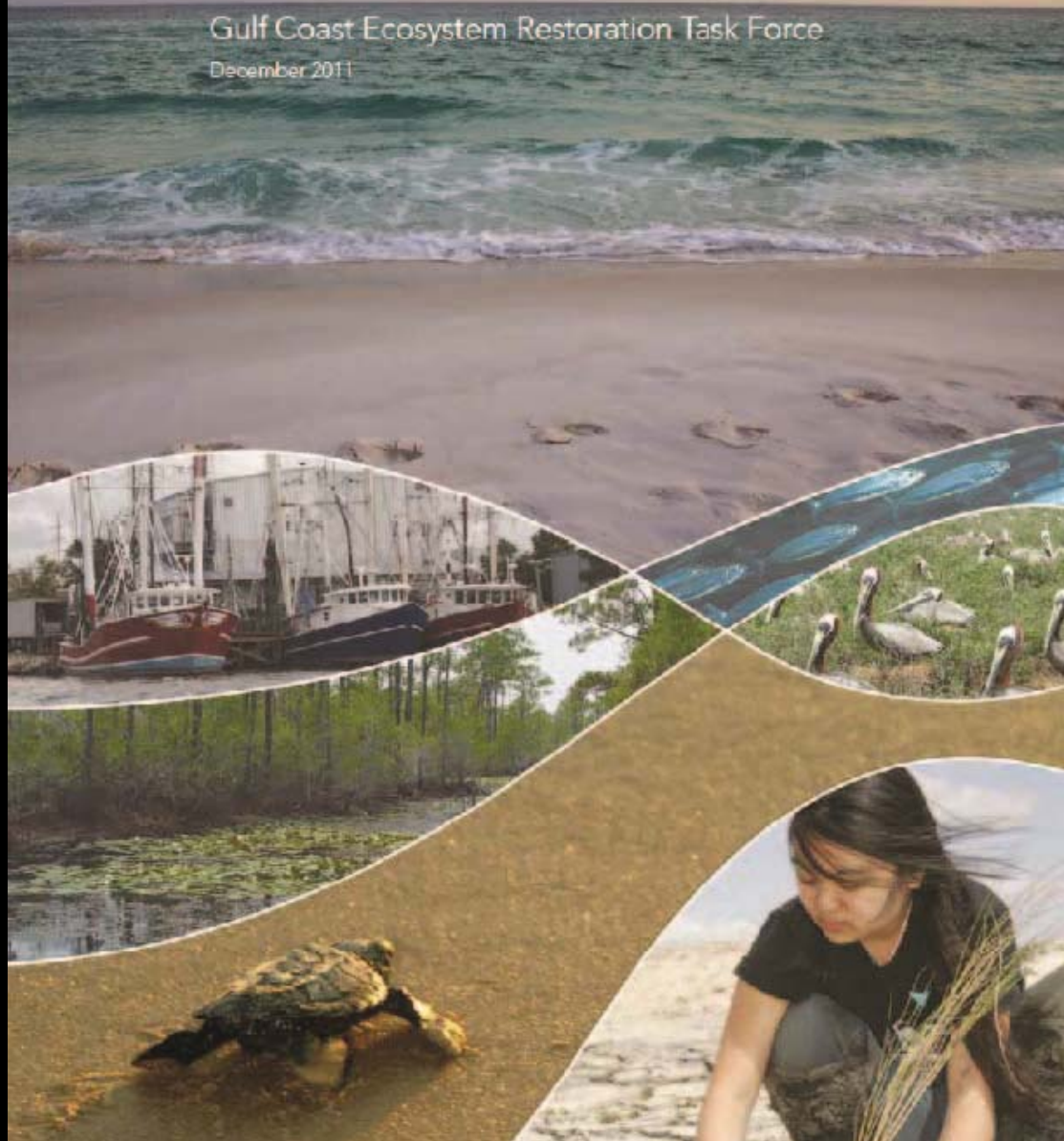




# Gulf of Mexico Regional Ecosystem Restoration Strategy

Gulf Coast Ecosystem Restoration Task Force

December 2011

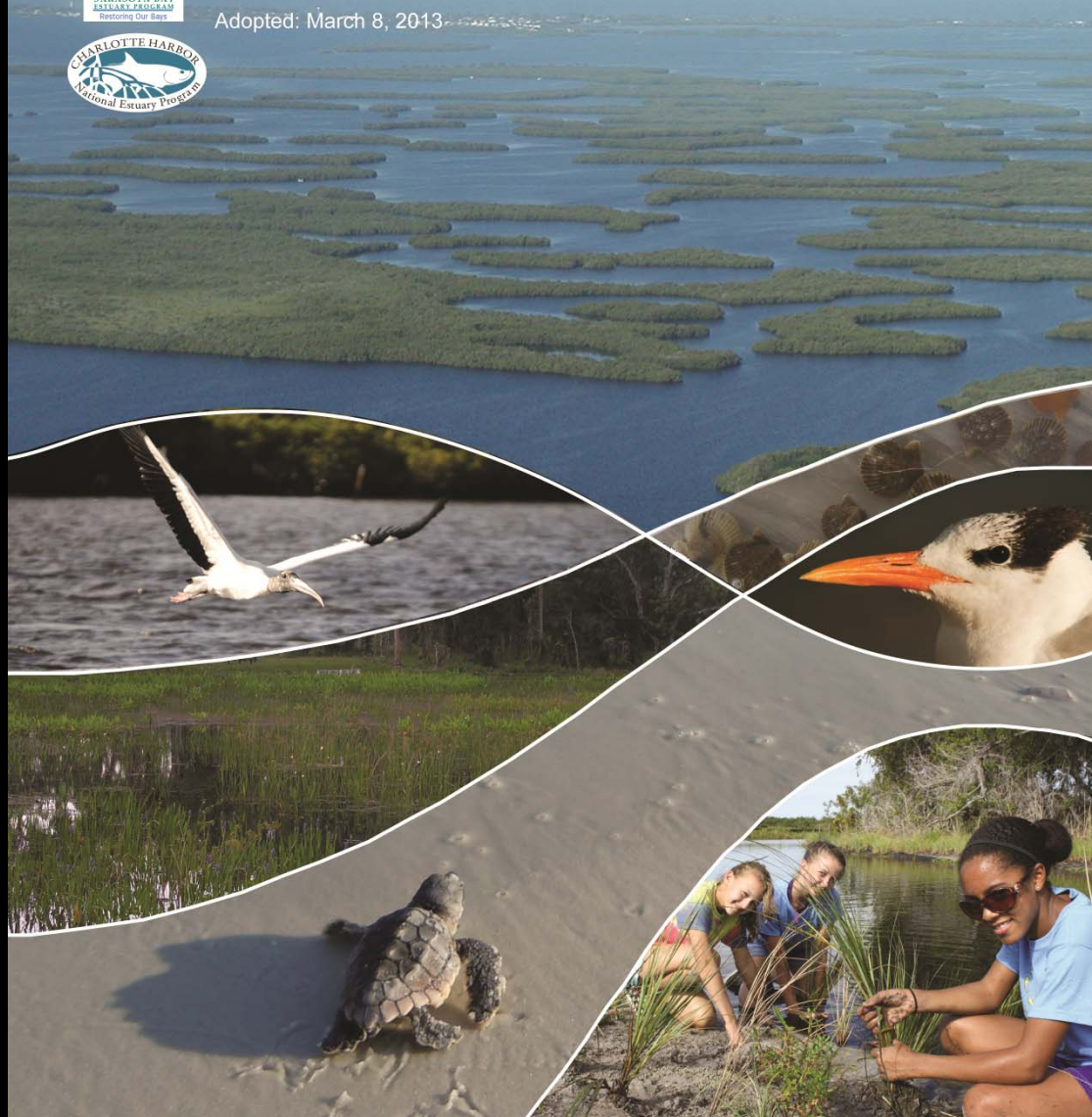




# Southwest Florida Regional Ecosystem Restoration Plan

Joint Florida Gulf National Estuary Programs

Adopted: March 8, 2013



## Gulf of Mexico Regional Ecosystem Restoration Strategy • Executive Summary

### Major Actions

#### **Goal:** **Restore and Conserve Habitat**

- Prioritize ecosystem restoration in the Gulf of Mexico by ensuring that social, environmental and economic outcomes are fully considered in all river management decisions, and by placing it on equal footing with other priorities such as navigation and flood damage risk reduction.
- Improve current sediment management practices to maximize to the extent practicable and ecologically acceptable the quantity and effective use of sediments by taking a “strategic use” approach to sediment management.
- Restore and preserve more natural river processes of sediment and freshwater distribution.
- Expand the network of state, federal and private conservation areas to ensure healthy landscapes that support the environment and culture of the region and the diverse services provided by the Gulf of Mexico ecosystem.
- Restore and conserve coastal and near-shore habitats, with a focus on marshes, mangroves, seagrasses, barrier islands, natural beaches and dunes, and coastal forests and prairies.

#### **Goal:** **Restore Water Quality**

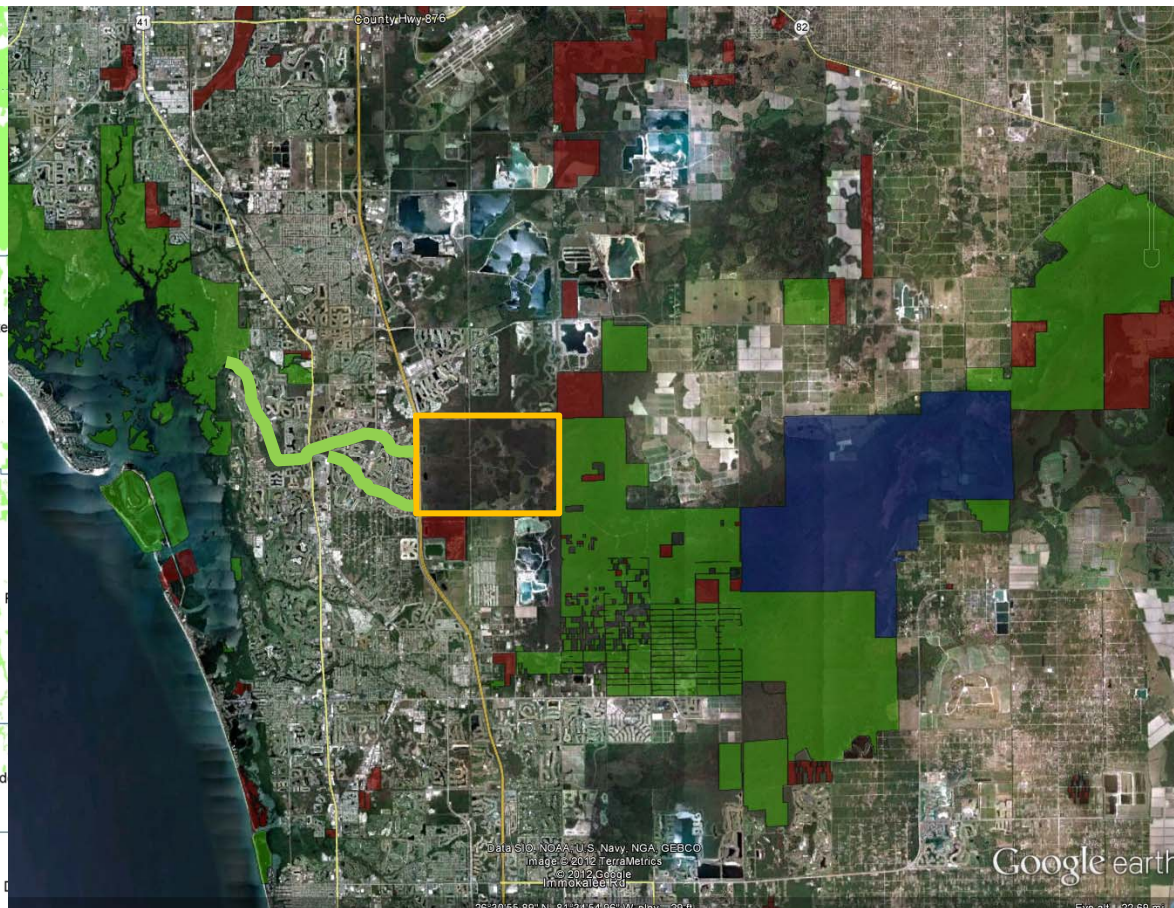
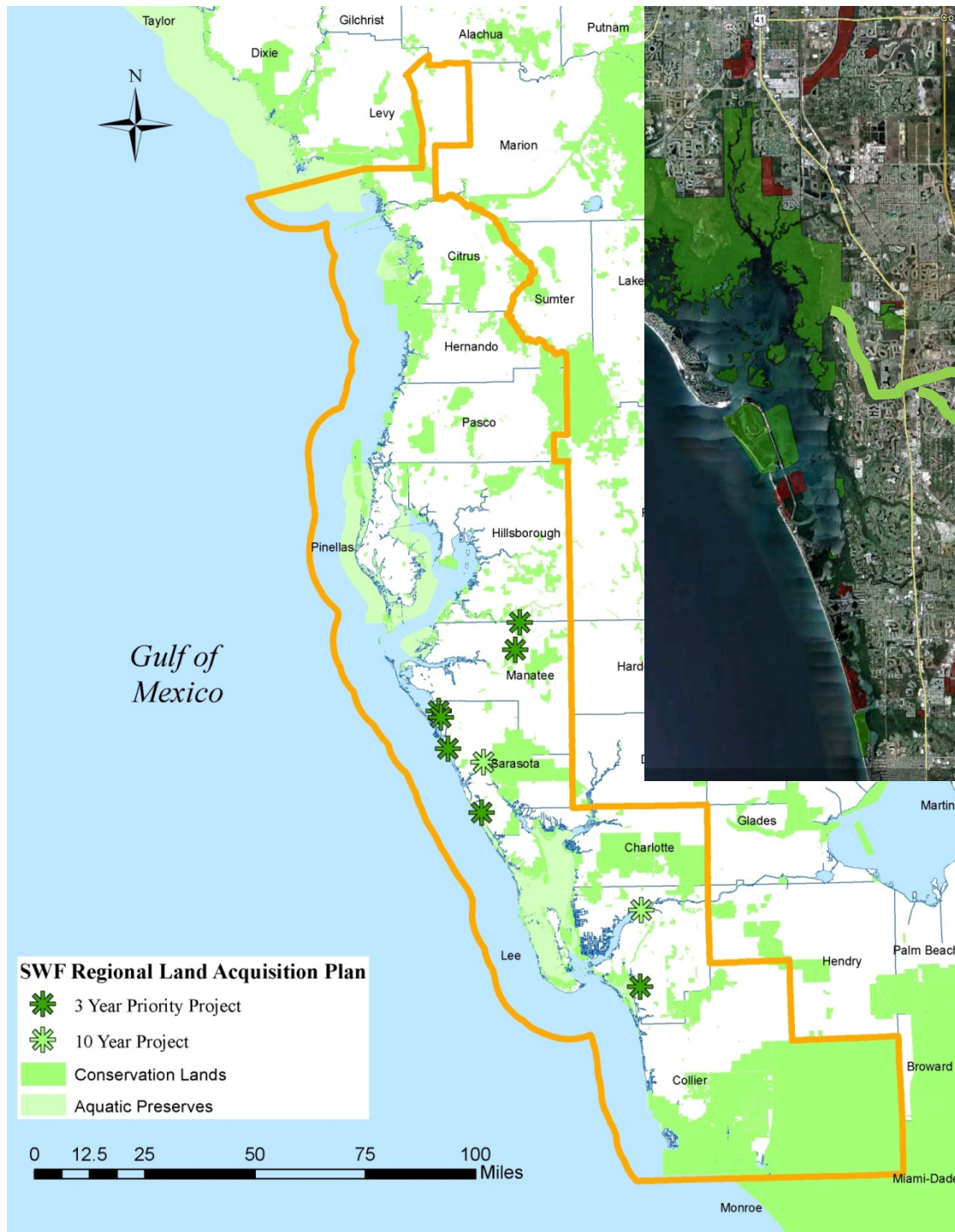
- Decrease and manage excess nutrient levels in the Gulf through the development and implementation of state nutrient reduction frameworks.
- Focus restoration actions in priority watersheds to address excess nutrients in coastal waters and reduce hypoxic conditions.
- Reduce pollutants and pathogens from stormwater flows and other sources.
- Improve the quality and quantity of freshwater flow into priority estuaries to protect their health and resiliency.
- Coordinate and expand existing water quality monitoring efforts supporting adaptive management of programs and projects designed to improve water quality.
- Collaborate with Mexico to assess and reduce emissions from oceangoing vessels in the Gulf that degrade water quality.

#### **Goal:** **Replenish and Protect Living Coastal and Marine Resources**

- Restore depleted populations of living coastal and marine resources.
- Conserve and protect offshore environments.
- Restore and protect oyster and coral reefs, and other coastal environments.
- Coordinate and expand existing Gulf monitoring efforts to track sentinel species and sites.
- Minimize, and eliminate where possible, invasive species that impact the Gulf of Mexico.

#### **Goal:** **Enhance Community Resilience**

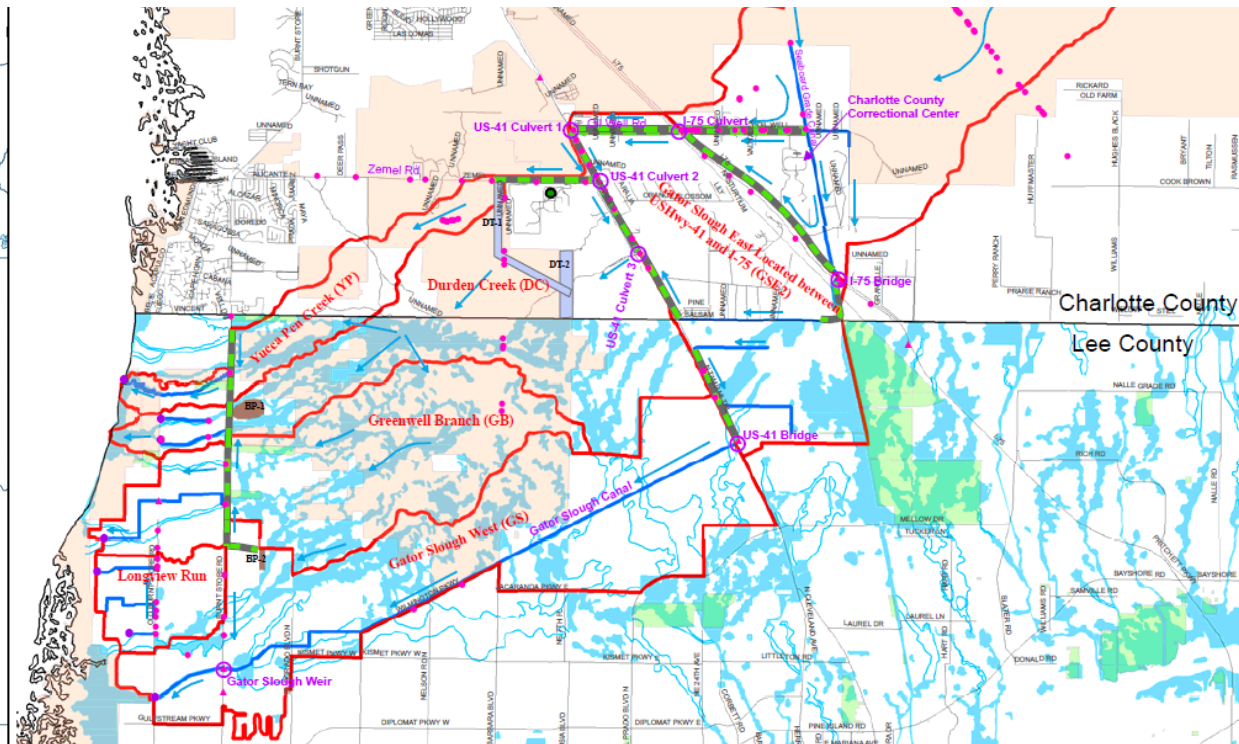
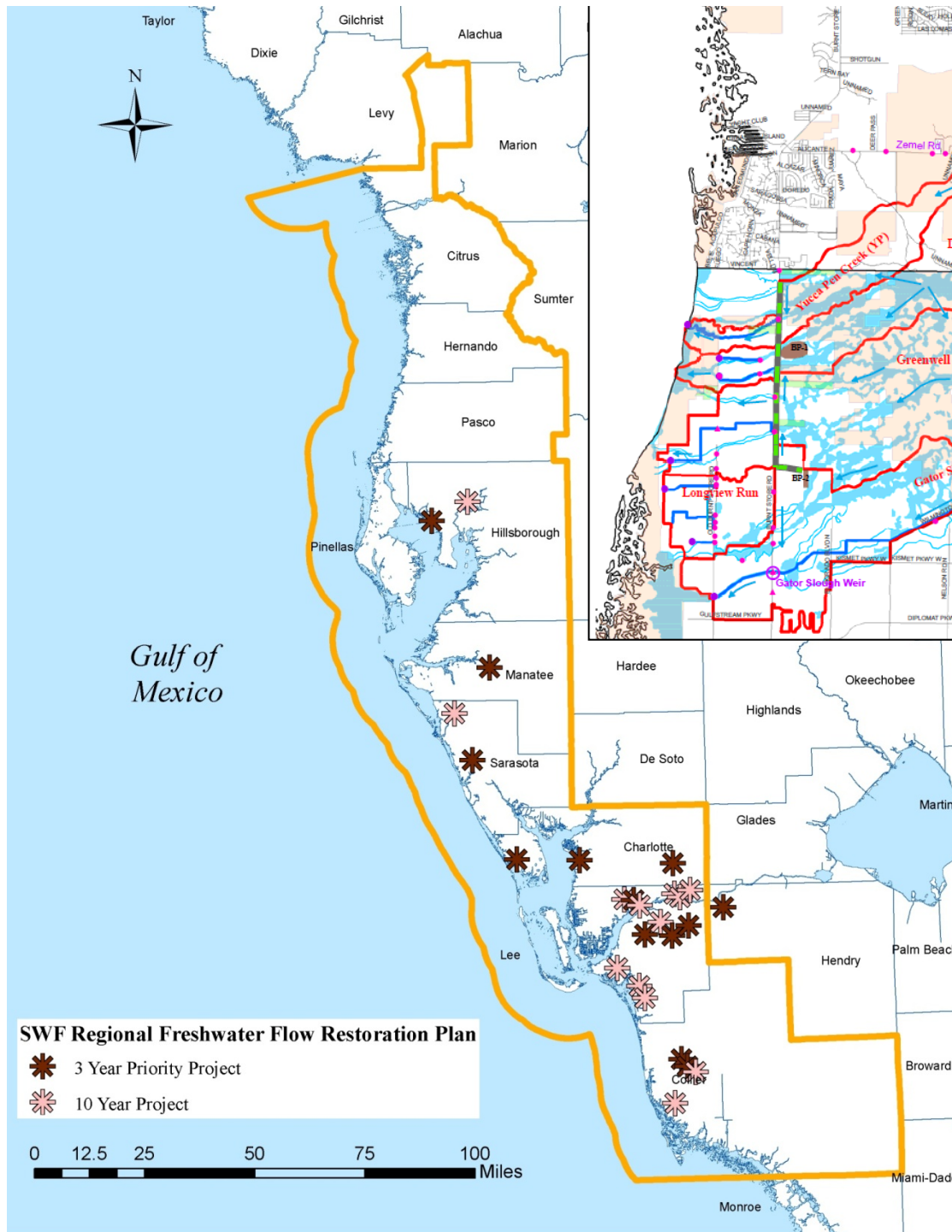
- Develop and implement comprehensive, scientifically based, and stakeholder-informed coastal improvement programs.
- Provide analytical support tools to enhance community planning, risk assessment and smart growth implementation.
- Enhance environmental education and outreach.



## Edison Farms/Agripartners Acquisition



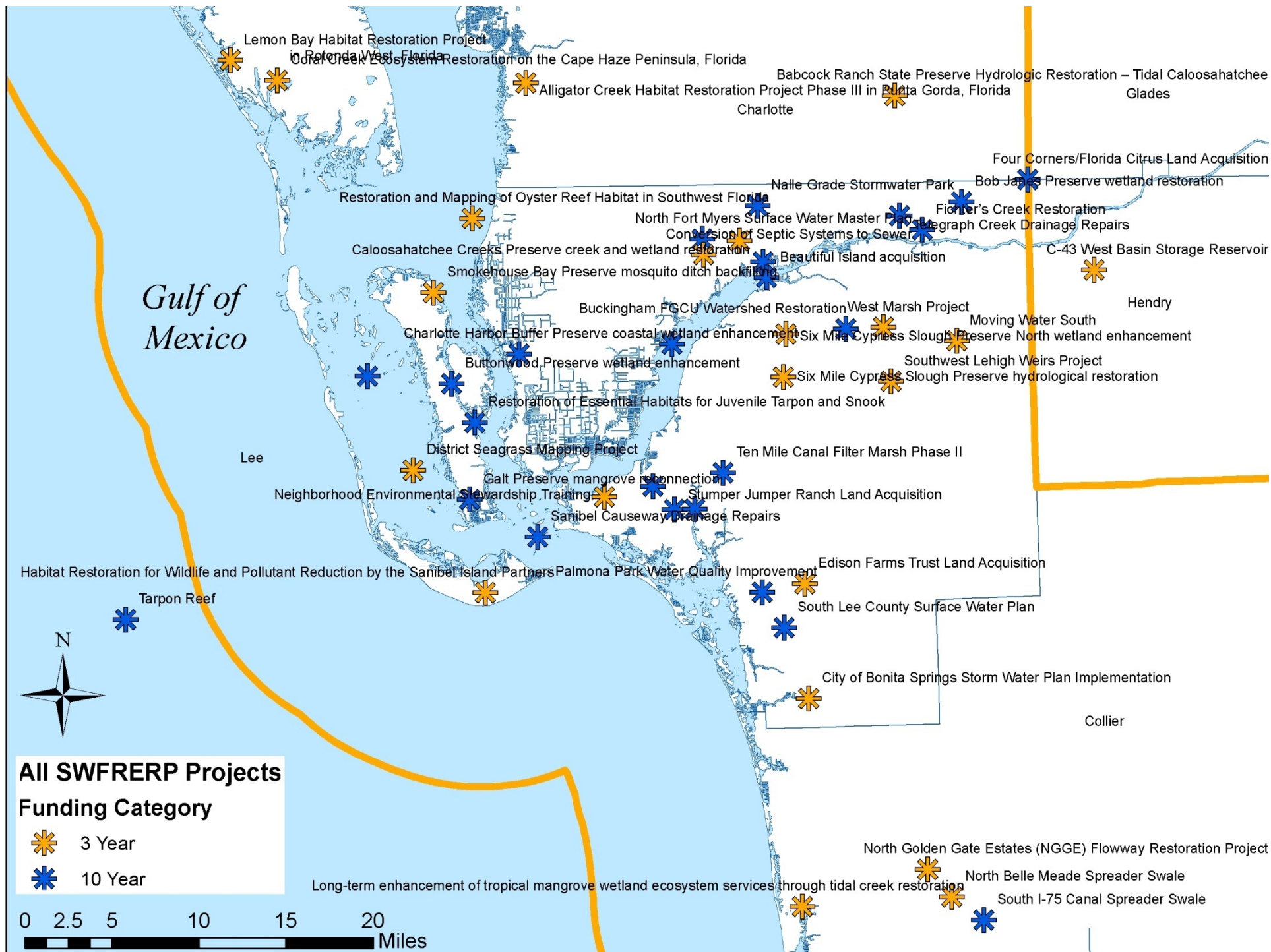
**10 Mile Canal Filter Marsh  
Phase II**



## Charlotte Harbor Flatwoods Initiative



## Stormwater Pond Education





**Director: Lisa B. Beever, PhD, AICP**

**Deputy Director: Liz Donley, JD**

**Communications Manager: Maran Hilgendorf**

**Program Scientist: Judy Ott, MS**

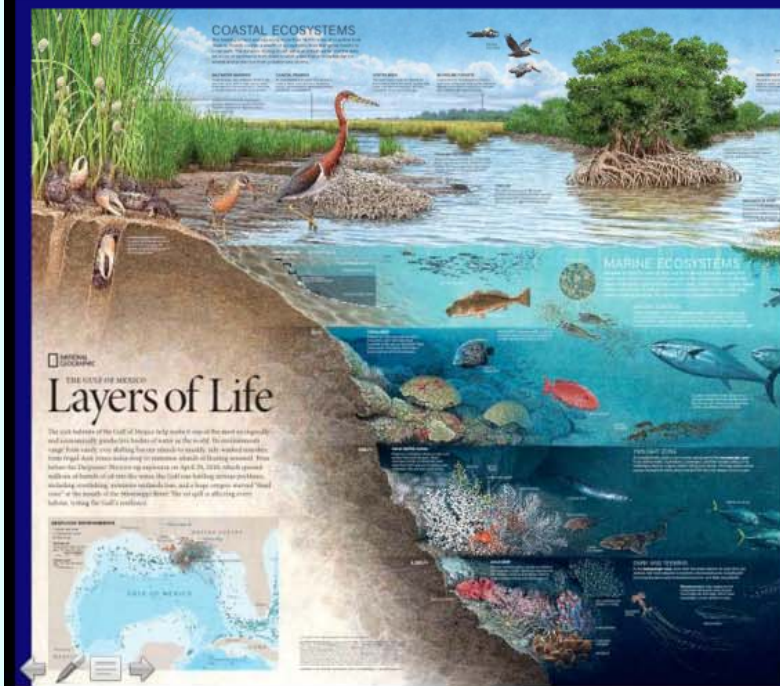
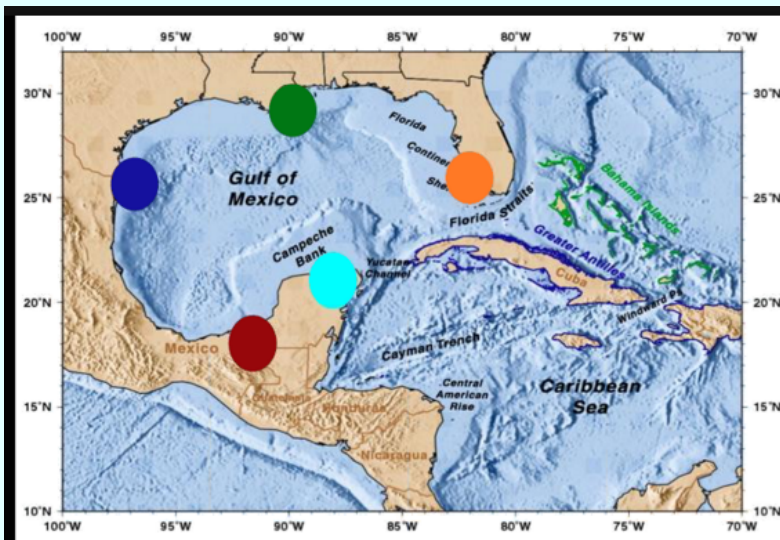
**326 W. Marion Avenue, Punta Gorda FL 33950**

**941/575-3392, Toll free 866/835-5785**

**[lbeever@chnep.org](mailto:lbeever@chnep.org)**

**[www.CHNEP.org](http://www.CHNEP.org)**





## The Concept of climate and coastal diversity of environmental settings along the Gulf Coast – design of ecosystem restoration projects – changing climate.

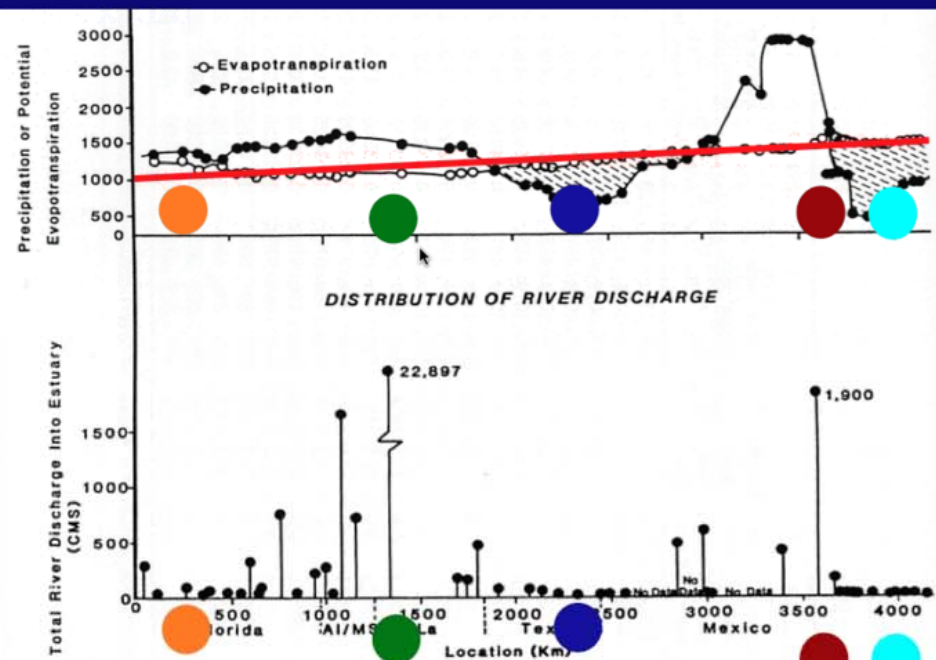


Figure 2. Top: Distance from the coast line to the upland 50-meter contour. Each point corresponds to an estuary defined in Table 1. Numbers above the points identify each fifth estuary. Middle: Climatic water budget. Shading represents areas where annual potential evapotranspiration exceeds rainfall. Bottom: Variation of River Discharge. River discharge is the sum of the annual average discharge (cubic meters per second) of all gauged rivers and streams flowing into an estuary. The horizontal axis is the distance (km) from the southern tip of Florida to the eastern tip of the Yucatan (Fig. 1).