

SECTION 4 - Service Areas / In-Kind Vs. Out-of-Kind Determination

SERVICE AREAS FOR MITIGATION BANKS IN FLORIDA

The Florida statute and Federal Guidance regarding wetland mitigation banks specifically address the topic of service areas. Both documents indicate that the service area boundary should be defined according to hydrological and ecological functions. Additionally, both documents encourage flexibility as long as that flexibility is scientifically based. The Federal Guidance suggests a combination of using hydrologic cataloging units which have been mapped by the United States Geologic Survey (USGS) and "Ecoregions of the United States" by either James M. Omernik or Robert G. Bailey, as a guide. The Federal Guidance permits the option of using other classification systems developed at a state or regional level.

In Florida, watersheds have been mapped which define local/regional hydrologic units. Actual service area for banks will be clearly defined and mapped in mitigation banking instruments. The general acceptance of the service area will be reflected by the individual agency concurrence signature on the mitigation banking instrument. Refer to the following watershed maps which have been developed by the water management districts. These watersheds are subdivisions of the USGS hydrologic units. We have included two maps for northwest Florida reflecting different levels of refinement.

As the methods of defining service areas for mitigation banks in Florida are further refined, they will be considered by the Mitigation Bank Review Teams (MBRT) throughout the state and applied as appropriate. As suggested by statute and guidance, the MBRTs will be flexible in accepting the extent of the service area as long as it has a basis in natural science and is not based on economic considerations or political boundaries.

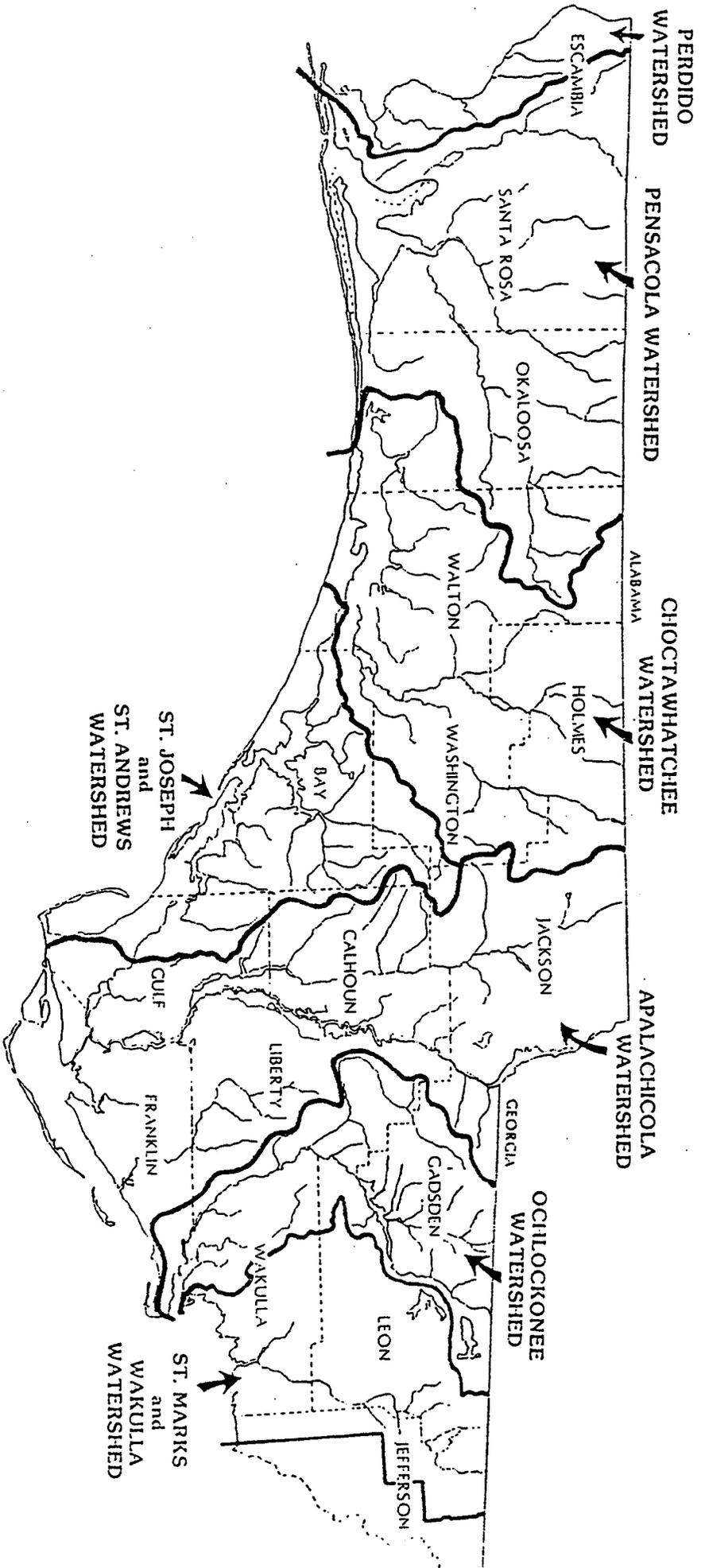
Use of a mitigation bank to compensate for impacts beyond the designated service area may be authorized on a case-by-case basis. The Federal agencies believe exceptional circumstances are required to go outside of the service area. Furthermore, the Florida MBRT discourages the use of a mitigation bank in mitigating for impacts outside of the service area. A "proximity" multiplier, derived through ecological considerations, should be used in the event of mitigating outside of the regional watershed boundaries. For example, in section 5d, the Florida MBRT has proposed a method of calculating a proximity factor, and will consider other methods of calculating such a factor. In addition, the use of a mitigation bank even within the designated service area may be limited by other state and Federal permitting criteria.

The mitigation service area (MSA) for a bank is based on the area within which adverse impacts could reasonably be expected to be offset by the mitigation bank. The MSA is generally coextensive with the regional watershed boundary, but may be larger or smaller than this boundary based on local ecological or hydrological considerations. For the State's review, the determination of whether or not a specific adverse impact can be offset by a specific mitigation bank can only be made on a case-by-case basis during the review of the application for the proposed impact. That determination includes a cumulative impact analysis, as required by Section 373.414(8) F.S., and as outlined in the respective rules of the FDEP and the water

management districts. In some cases, due to either the bank not being able to offset the adverse impacts or due to unacceptable adverse cumulative impacts within the watershed of the impact, the bank may not be able to be used, in full or in part, to mitigate for the proposed impacts.

IN-KIND VERSUS OUT-OF KIND MITIGATION DETERMINATIONS

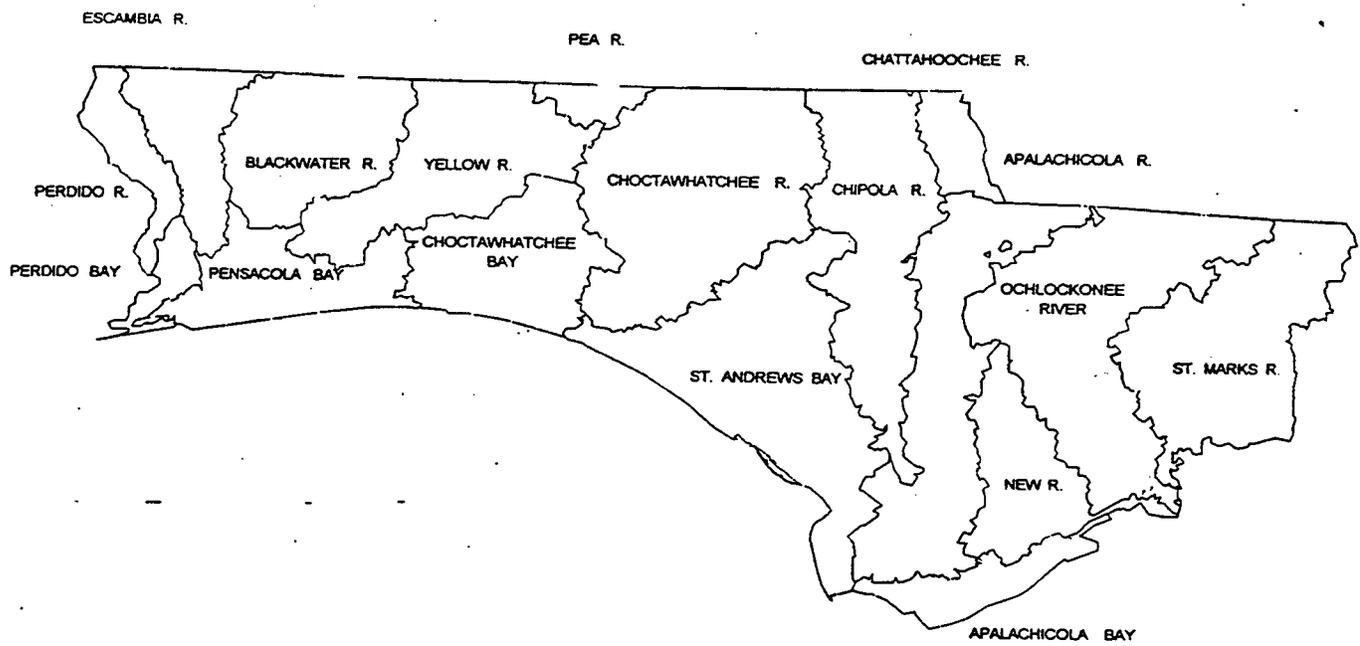
In the interest of achieving functional replacement and in agreement with state regulations on mitigation in general, in-kind compensation of aquatic resource impacts should generally be required. Out-of-kind compensation may be acceptable if it is determined to be environmentally preferable to in-kind compensation (e.g., of greater ecological value to a particular region). Out-of-kind compensation may be acceptable if it offsets functions provided by wetlands which are lost due to regulated activities. However, non-tidal wetlands should typically not be used to compensate for the loss or degradation of tidal wetlands. Decisions regarding out-of-kind mitigation are typically made on a case-by-case basis during the permit evaluation process. The mitigation banking instrument may identify circumstances in which it is environmentally desirable to allow out-of-kind compensation within the context of a particular mitigation bank (e.g., for banks restoring a complex of associated wetland types). Mitigation banks developed as part of an area-wide management plan to address a specific resource objective (e.g., restoration of a particularly vulnerable or valuable wetland habitat type) may be such an example.



**Regional Watersheds of the NFWFMD
for Mitigation Banks**

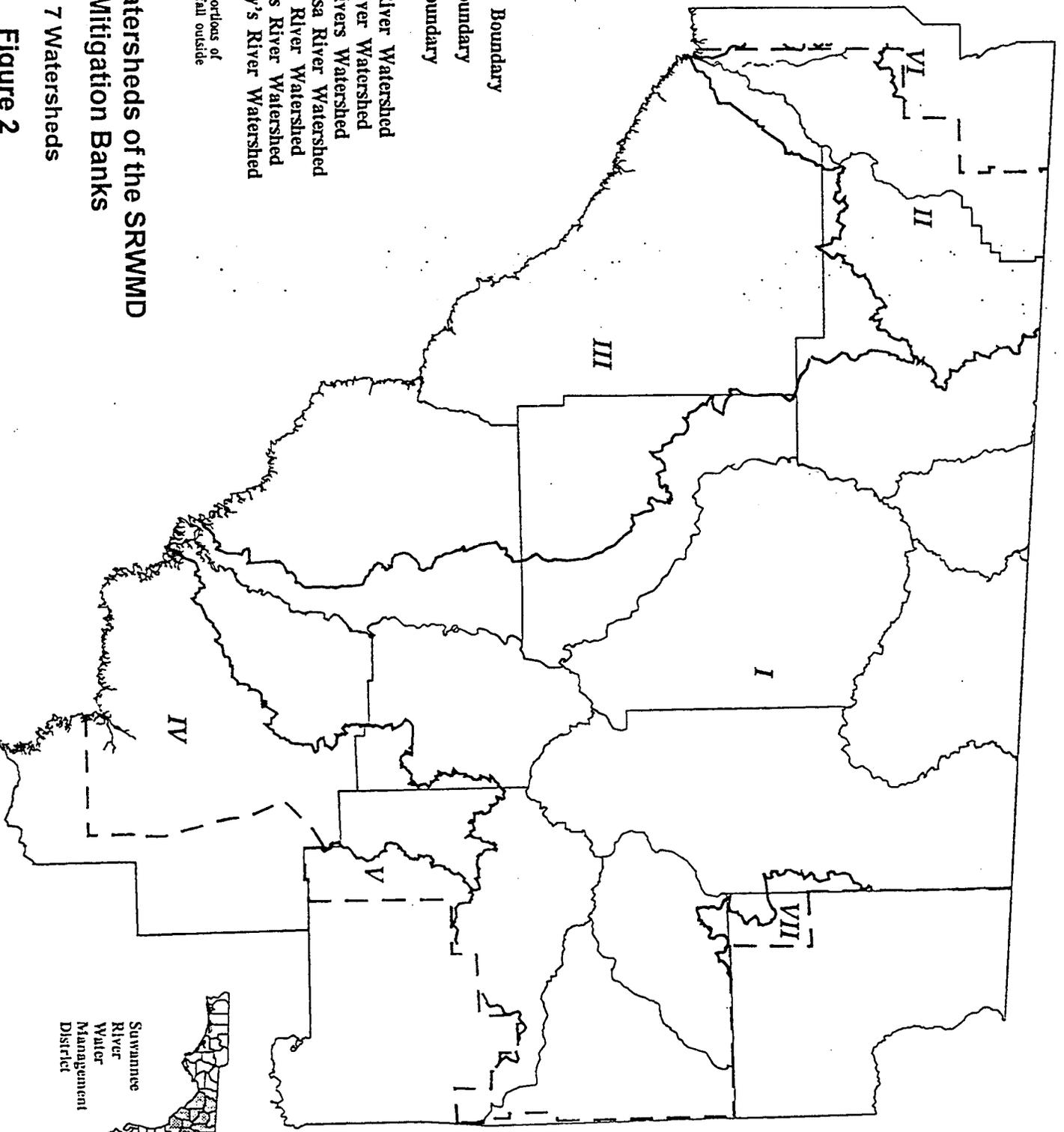
7 Watersheds

Figure 1



Hydrologic Unit Map of Northwest Florida

Source: FDEP, 1994



N Watershed Boundary

County Boundary

District Boundary

- I Suwannee River Watershed
- *II Aucilla River Watershed
- III Coastal Rivers Watershed
- *IV Waccasassa River Watershed
- *V Oklawaha River Watershed
- *VI St. Marks River Watershed
- *VII St. Mary's River Watershed

* Including those portions of the basin which fall outside the SRWMD.

Regional Watersheds of the SRWMD for Mitigation Banks

7 Watersheds

Figure 2



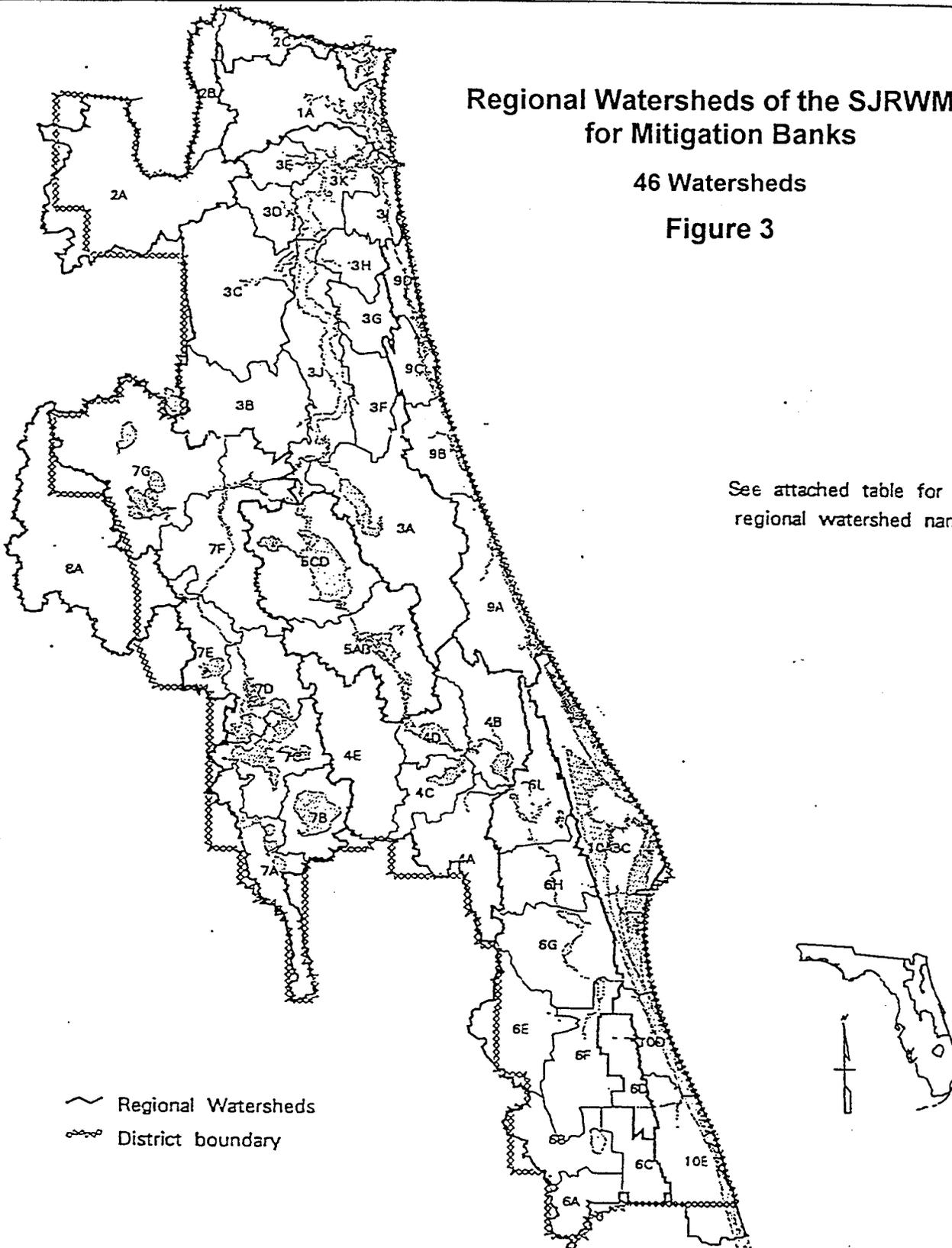
Suwannee
River
Water
Management
District

Regional Watersheds of the SJRWMD for Mitigation Banks

46 Watersheds

Figure 3

See attached table for
regional watershed names.



SJRWMD REGIONAL WATERSHEDS

- 01 NASSAU RIVER
 - 1A Nassau River

- 02 ST. MARYS RIVER
 - 2A Upper St. Marys River
 - 2B Middle St. Marys River
 - 2C Lower St. Marys River

- 03 LOWER ST. JOHNS RIVER
 - 3A Crescent Lake
 - 3B Etonia Creek
 - 3C Black Creek
 - 3D Ortega River
 - 3E Trout River
 - 3F Deep Creek Unit
 - 3G Sixmile Creek
 - 3H Julington Creek
 - 3I Intracoastal Waterway
 - 3J South Lower Basin Unit
 - 3K North Lower Basin Unit

- 04 MIDDLE ST. JOHNS RIVER
 - 4A Econlockhatchee River
 - 4B Deep Creek Unit
 - 4C Lake Jessup
 - 4D Lake Monroe Unit
 - 4E Wekiva River

- 05 LAKE GEORGE
 - 5AB Lake Woodruff Unit, Alexander Springs Creek
 - 5CD Lake George Unit, Lake Kerr Unit

- 06 UPPER ST. JOHNS RIVER
 - 6A Fort Drum Creek Unit
 - 6B Blue Cypress Creek Unit
 - 6C Fellsmere
 - 6D Interbasin Diversion
 - 6E Jane Green Creek
 - 6F St. Johns Marsh
 - 6G Lake Poinsett Unit
 - 6H Tosohatchee Unit
 - 6I Puzzle Lake Unit

- 07 OCKLAWAHA RIVER
 - 7A Palatlakaha River
 - 7B Lake Apopka
 - 7C Lake Harris Unit
 - 7D Lake Griffin Unit
 - 7E Marshall Swamp Unit
 - 7F Lake Ocklawaha Unit
 - 7G Orange Creek

- 08 FLORIDA RIDGE
 - 8A Florida Ridge Unit

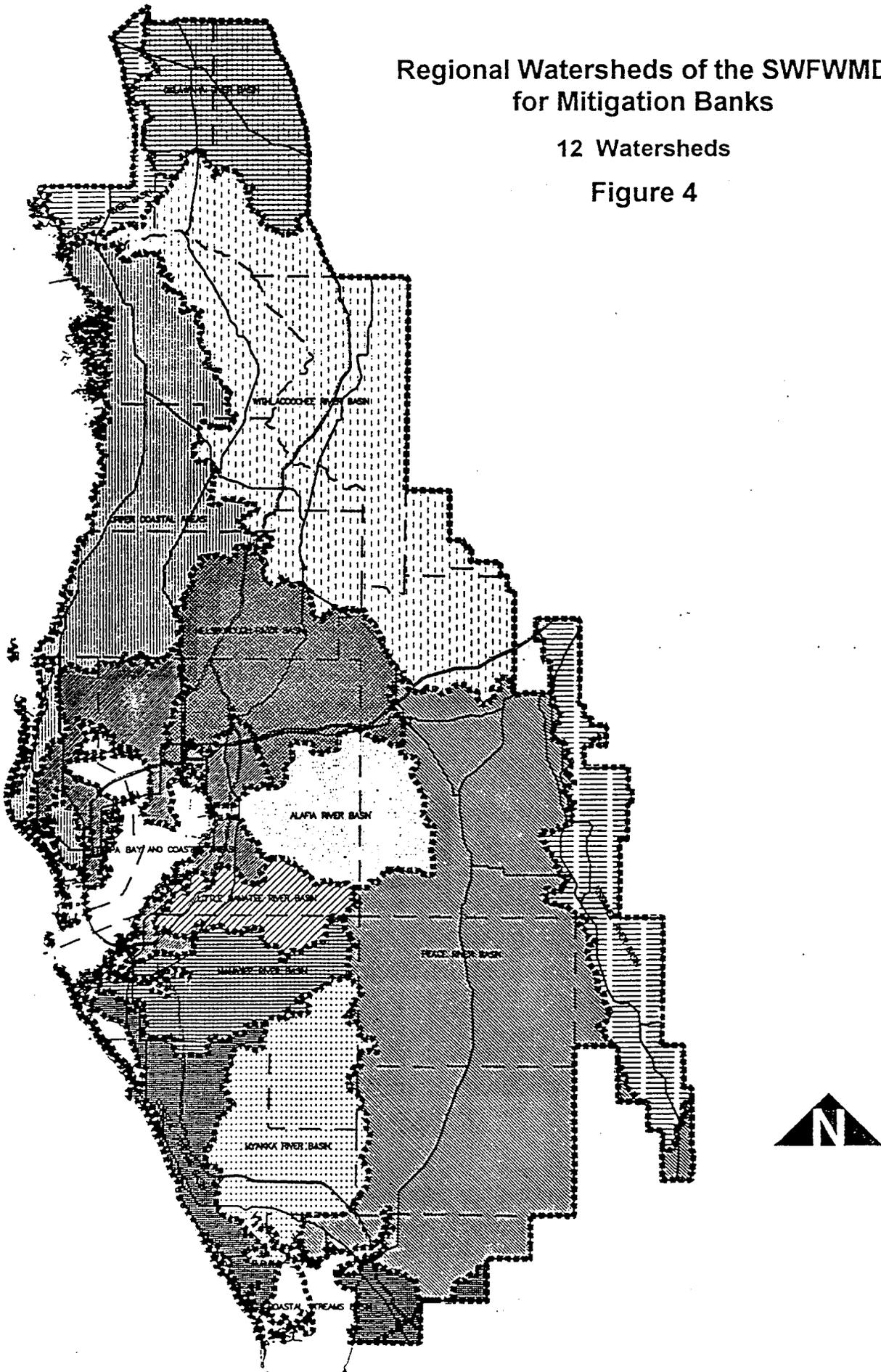
- 09 UPPER COASTAL
 - 9A Halifax River
 - 9B Pellicer Creek Unit
 - 9C Matanzas River
 - 9D Tolomato River

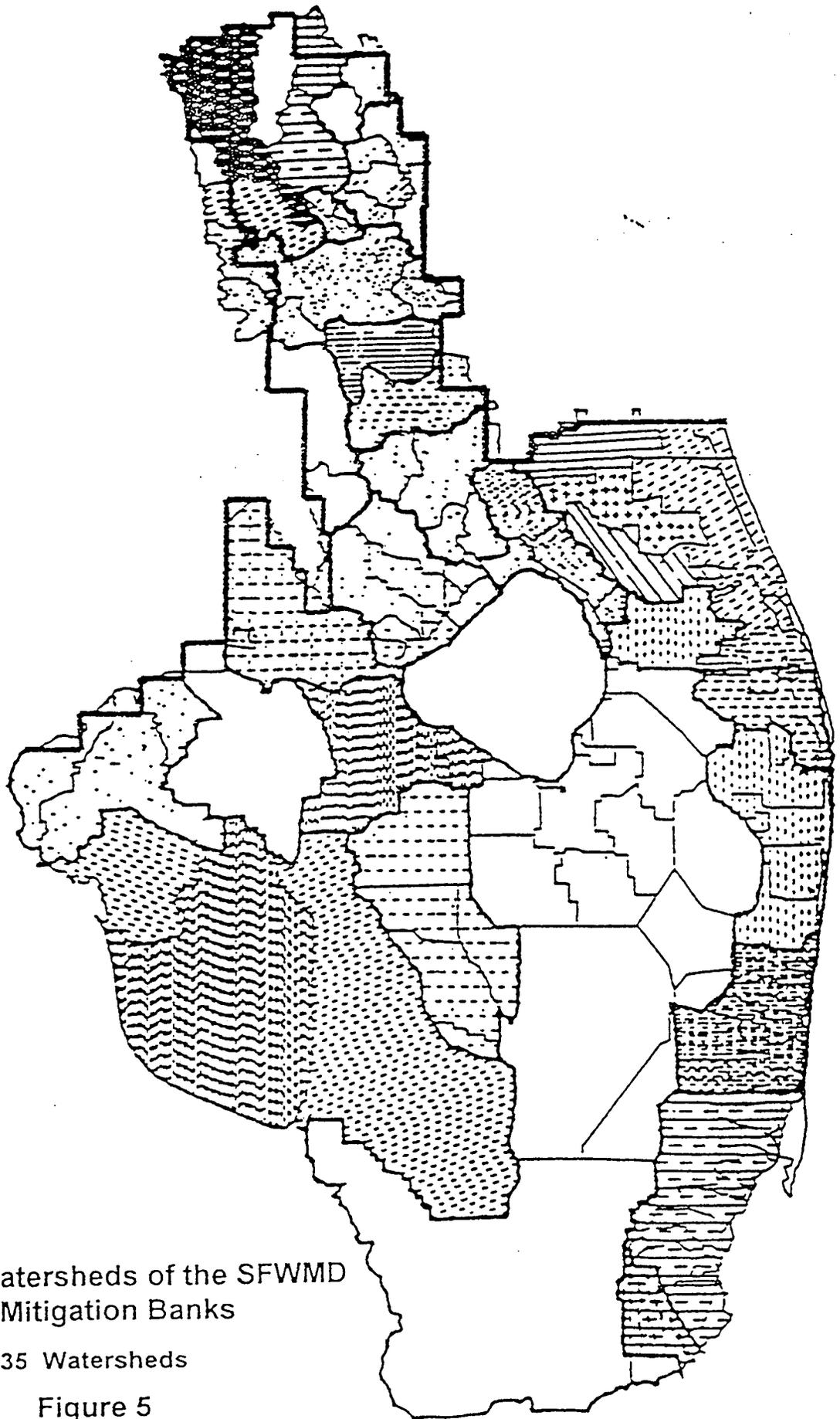
- 10 INDIAN RIVER LAGOON
 - 10ABC Mosquito Lagoon, Banana River, North Indian River Lagoon
 - 10D North Central Indian River Lagoon
 - 10E South Central Indian River Lagoon

Regional Watersheds of the SWFWMD for Mitigation Banks

12 Watersheds

Figure 4





Regional Watersheds of the SFWMD
for Mitigation Banks

35 Watersheds

Figure 5