# Kissimmee Water Reservation Rule Development Process Overview

## Water Resource Advisory Committee

*January 8, 2009*

sfwmd.gov

# Presentation Overview

- What is a Reservation?
- Technical Foundation of Reservation
- Rule Implementation
- Administrative Aspects

# What is a water reservation?

- "The Governing Board or the department, by regulation, may reserve from use by permit applicants, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety.
- Such reservations shall be subject to periodic review and revision in the light of changed conditions.
- However, all presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest." ***s. 373.223(4), Fla. Stat.***

# What does a reservation do?

- Prevents new uses from accessing reserved water
- Existing legal uses that are not contrary to the public interest are protected

# What a reservation doesn't do

- Establish an operating regime by rule
- Drought proof the natural system
- Ensure the fish and wildlife goals of the project are achieved

# How is a reservation established?

- By rule
  - Rulemaking procedures governed by Section 120.54, F.S.
  - Public participation
    - Public Workshops with Stakeholders
    - WRAC and Governing Board Meetings
  - Joint Administrative Procedures Committee review for statutory consistency
  - DEP review for programmatic consistency

# Presentation Overview

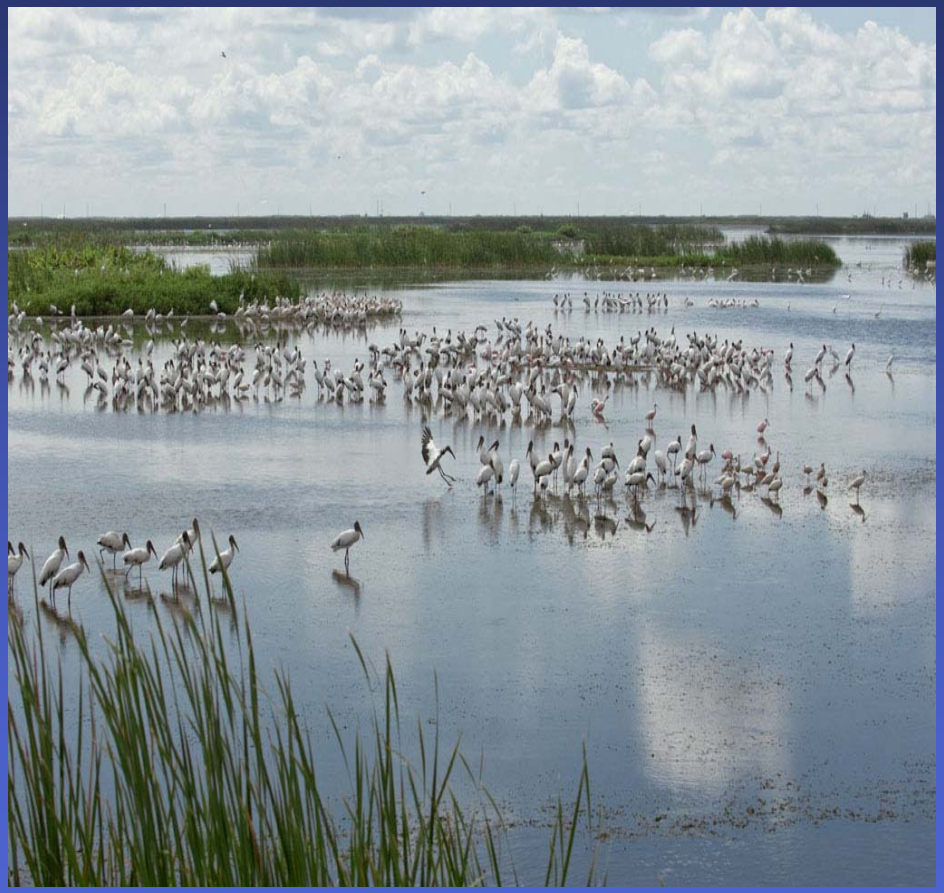
- What is a Reservation?
- Technical Foundation of Reservation
- Rule Implementation
- Administrative Aspects

# Step #1: Identify Reservation Waterbodies

- Specific hydrologic reaches with fish and wildlife/hydrologic linkages
- 7 Lake Management Areas; LMAs (19 lakes total)
- Restored Kissimmee River and floodplain (S-65 to S-65E)

# Step #2: Identify Fish and Wildlife Species to be Protected

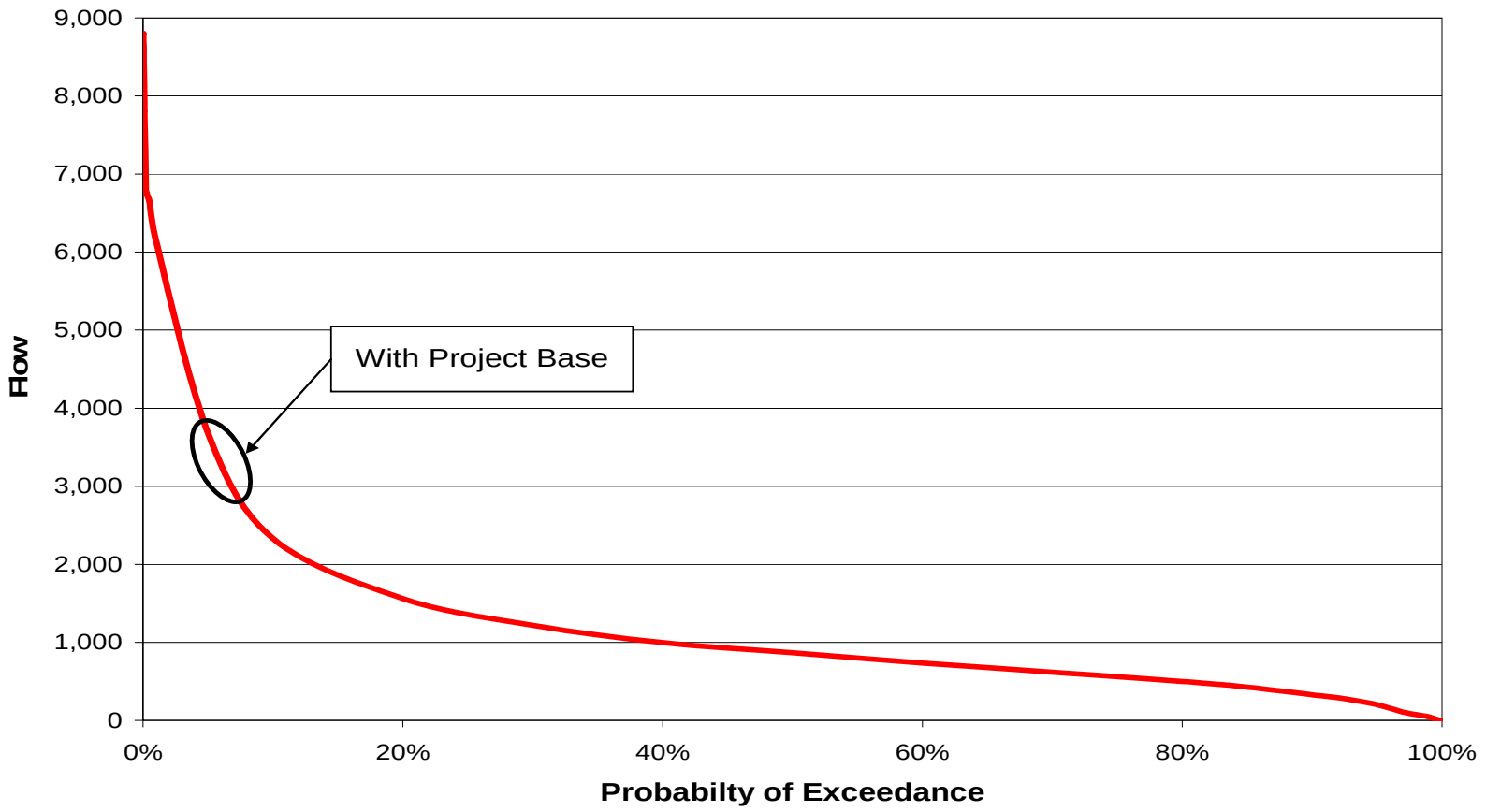
- Species and habitat with well defined linkages to hydrology
- Species of special concern
- Habitat associated with nesting and foraging



# Step #3: Identify 'with project' hydrology

- Defines 'how much water is there'
- Covers a wide range of hydrologic variability (wet, dry and everything in between years)
- Consideration of operations and physical constraints of the project
  - Fully restored Kissimmee River and floodplain (S-65 to S-65E)
  - Headwaters Revitalization regulation schedule for Kissimmee, Hatchnehaw, and Cypress
  - Existing operations for remaining lakes in the upper chain

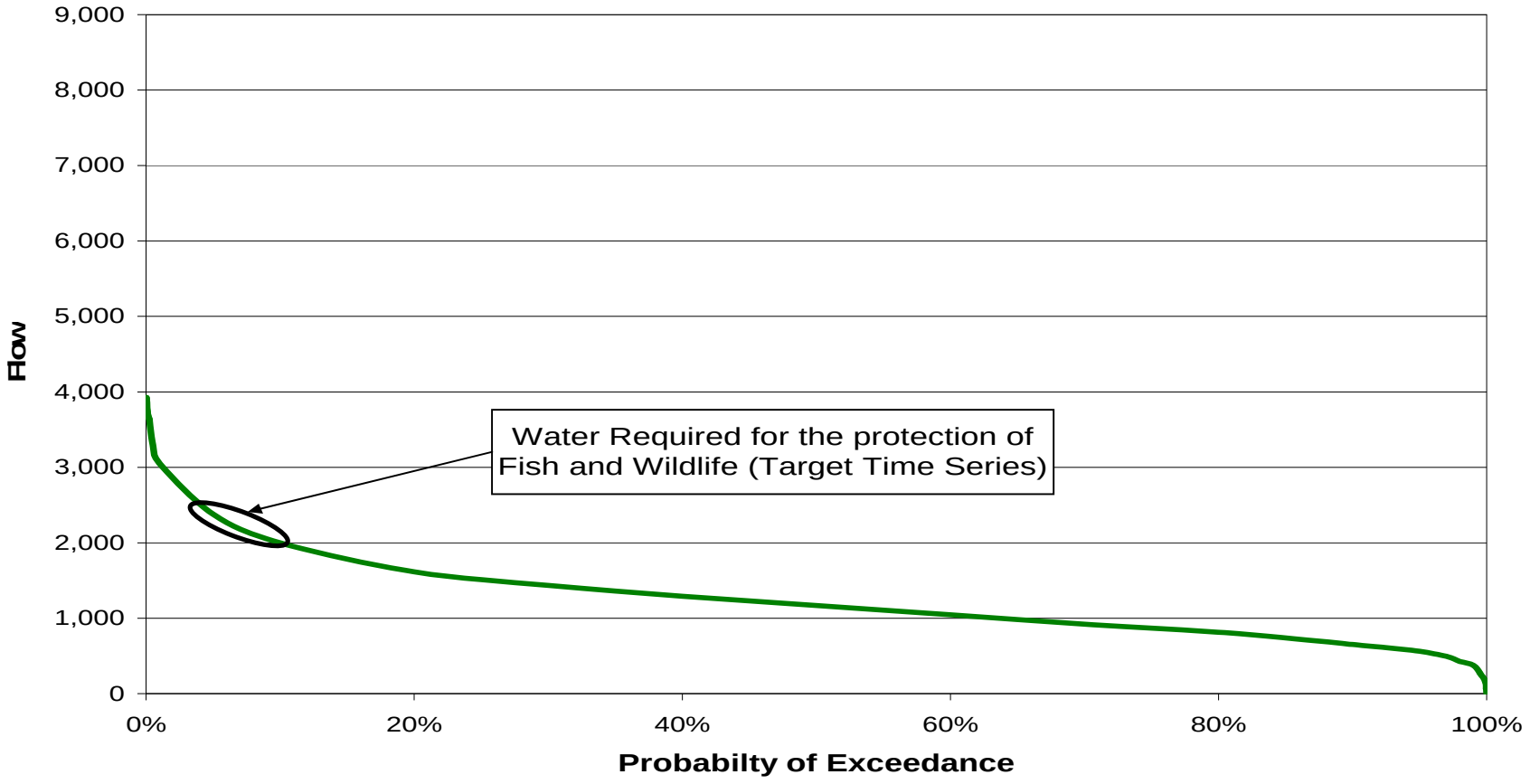
# Step #3: Identify 'with project' hydrology cont.



# Step #4: Establish Linkages Between Hydrology and Biology

- Relates water flow / stage to nesting / foraging needs of fish and wildlife
- Performance measures identified
  - Recession / ascension rates
  - Littoral shelve inundation, depth and seasonality
  - floodplain inundation depth and seasonality

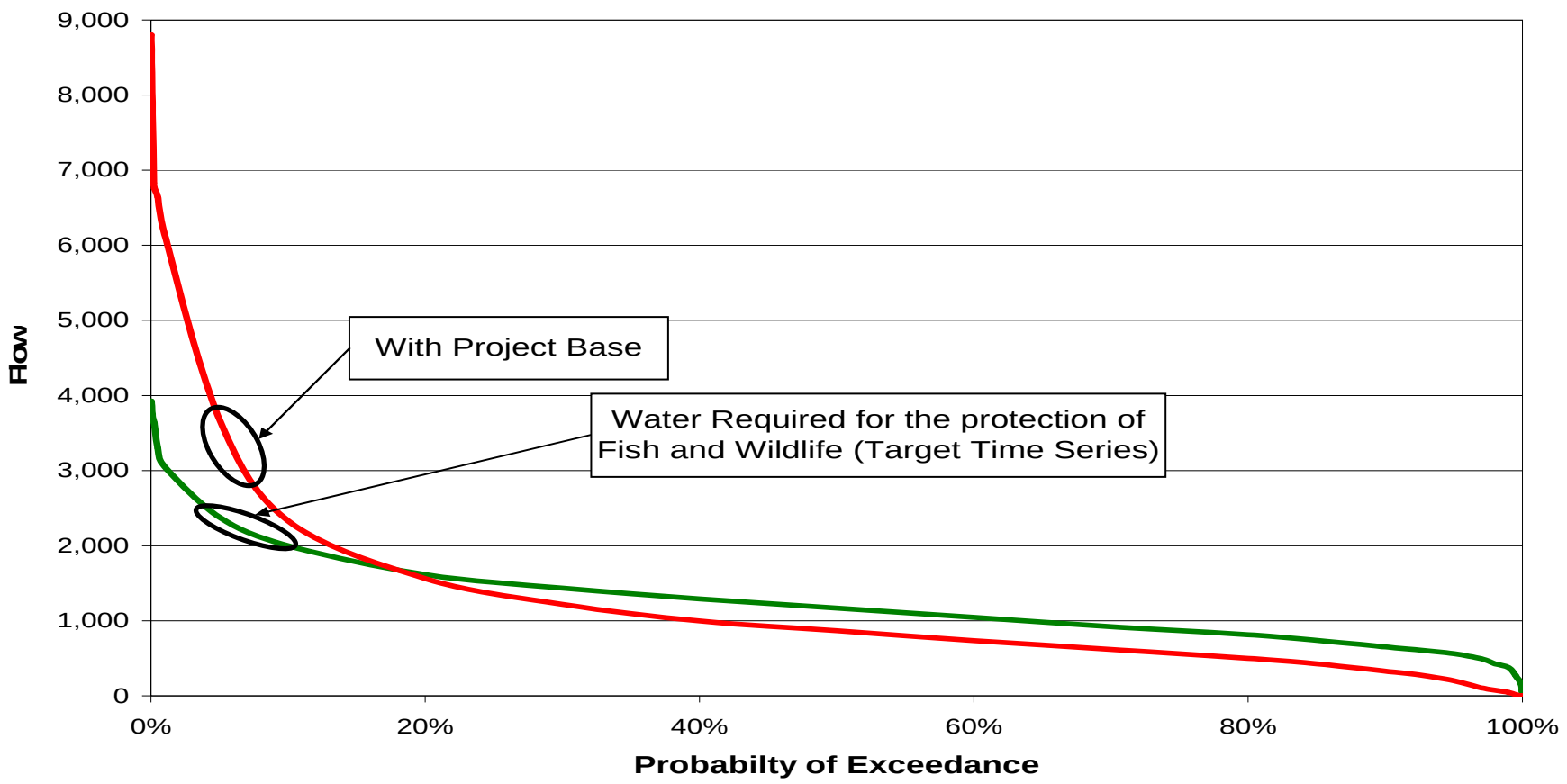
# Step #4: Establish Linkages Between Hydrology and Biology cont.



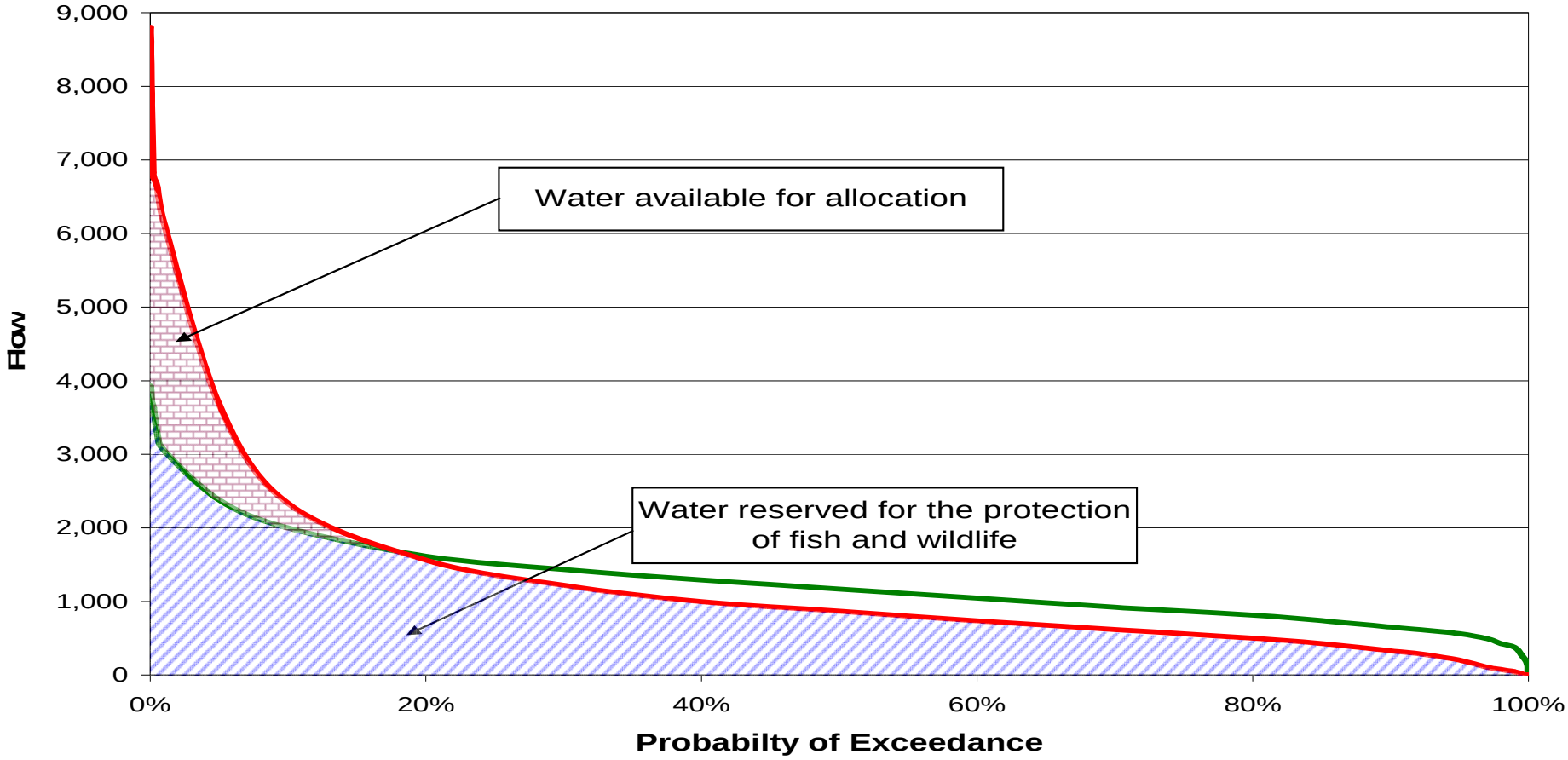
# Step #5: Identify Water Necessary for Protection of Fish and Wildlife

- Combine Steps 3 &4 to identify water necessary for protection of fish and wildlife
- What is needed for fish and wildlife is reserved
- Not needed for fish and wildlife is available for allocation

# Calculation of the Reservation Time Series

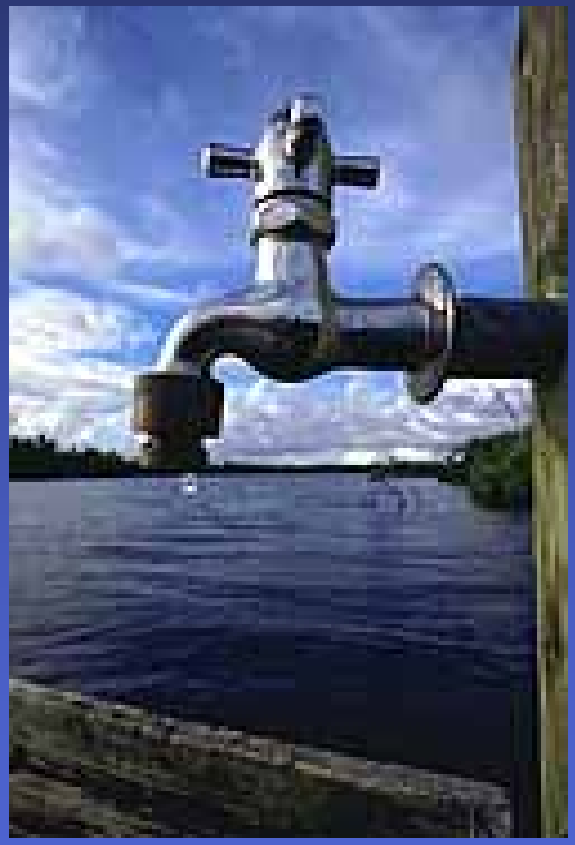


# Water Available for Allocation



# Presentation Overview

- What is a Reservation?
- Technical Foundation of Reservation
- Rule Implementation
- Administrative Aspects



# What does the rule look like?

- Ch. 40E-10, F.A.C., Water Reservations
  - New chapter containing reservations by planning area
- Chs. 40E- 2 and 20, F.A.C., Consumptive use
- Water Use Basis of Review
  - Criteria used by permit applicants to demonstrate compliance with rule

# Rule Implementation

- Identify reasonable assurances for permit applicants
  - Reserved water will not be withdrawn
    - Screening criteria
    - Modeling
  - Non-reserved water can be allocated
    - Certification of available water
- Types of technical demonstrations vary based on nature of permit application
  - Renewals, modifications, new uses
  - Source of supply, quantity, location

# Presentation Overview

- What is a Reservation?
- Technical Foundation of Reservation
- Rule Implementation
- Administrative Aspects

# Stakeholders

River Interests, Lake Interests, USACE, USFWS, PWS Utilities, DEP, WMD's, & FFWCC

# Rule Development Process – Administrative Aspects

- Public workshops
- Scientific Peer Review
  - Determine if the proposed linkage between hydrology and water for fish & wildlife is scientifically sound
  - Best available information
  - All data, methods, assumptions and models subject to review
- Web Page
  - Rule drafts, meeting notices, supporting documentation

# Rule Development Process - Administrative Aspects cont.

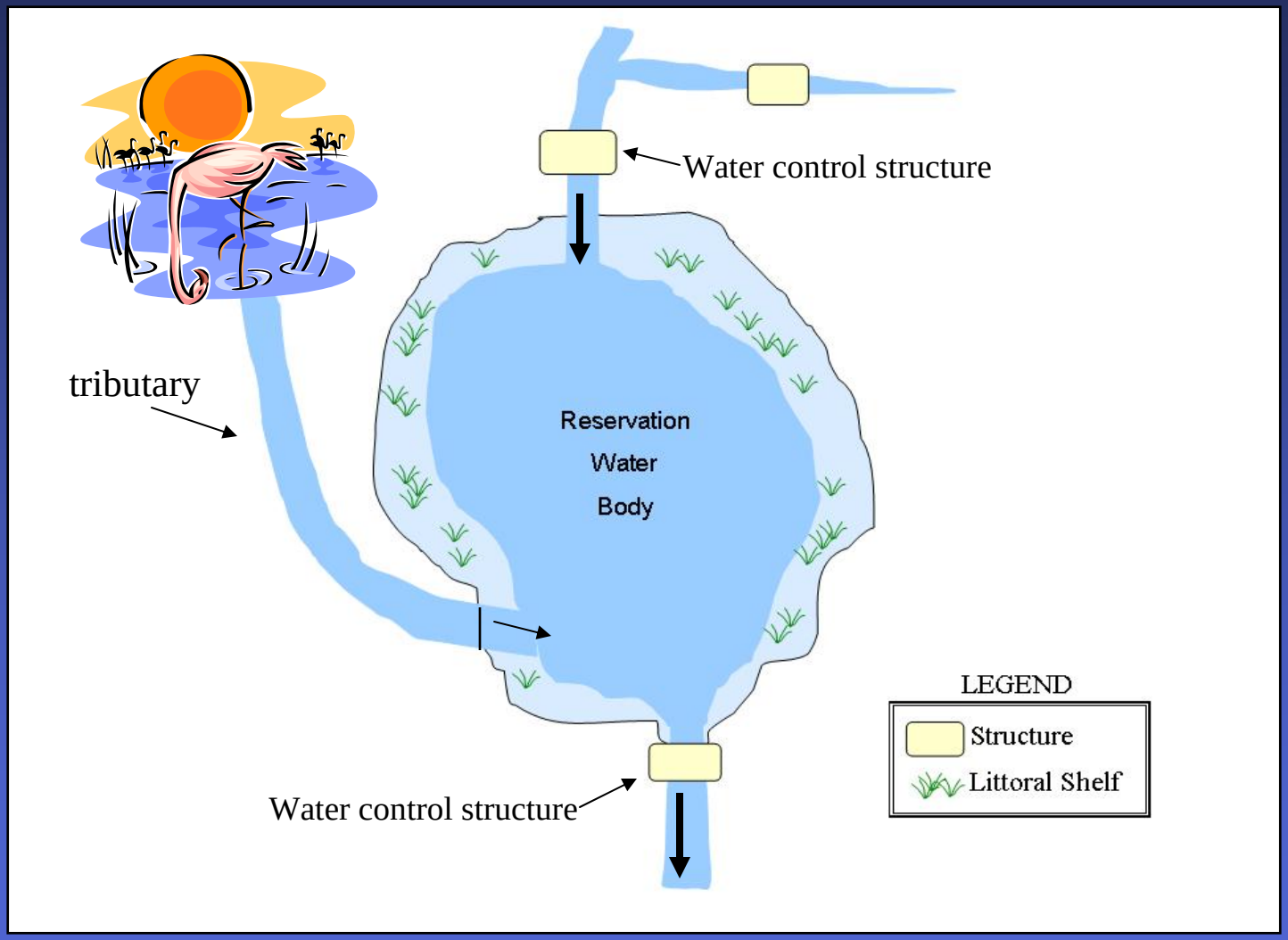
- Edit draft rule, report progress, more workshops
- Statement of Estimated Regulatory Costs
- Board authorizes formal publication of draft
  - Opportunity to finalize or to challenge rule
  - Adoption hearing
    - Board may adopt with changes
    - Must publish changes
- File with Department of State

# Major Milestones

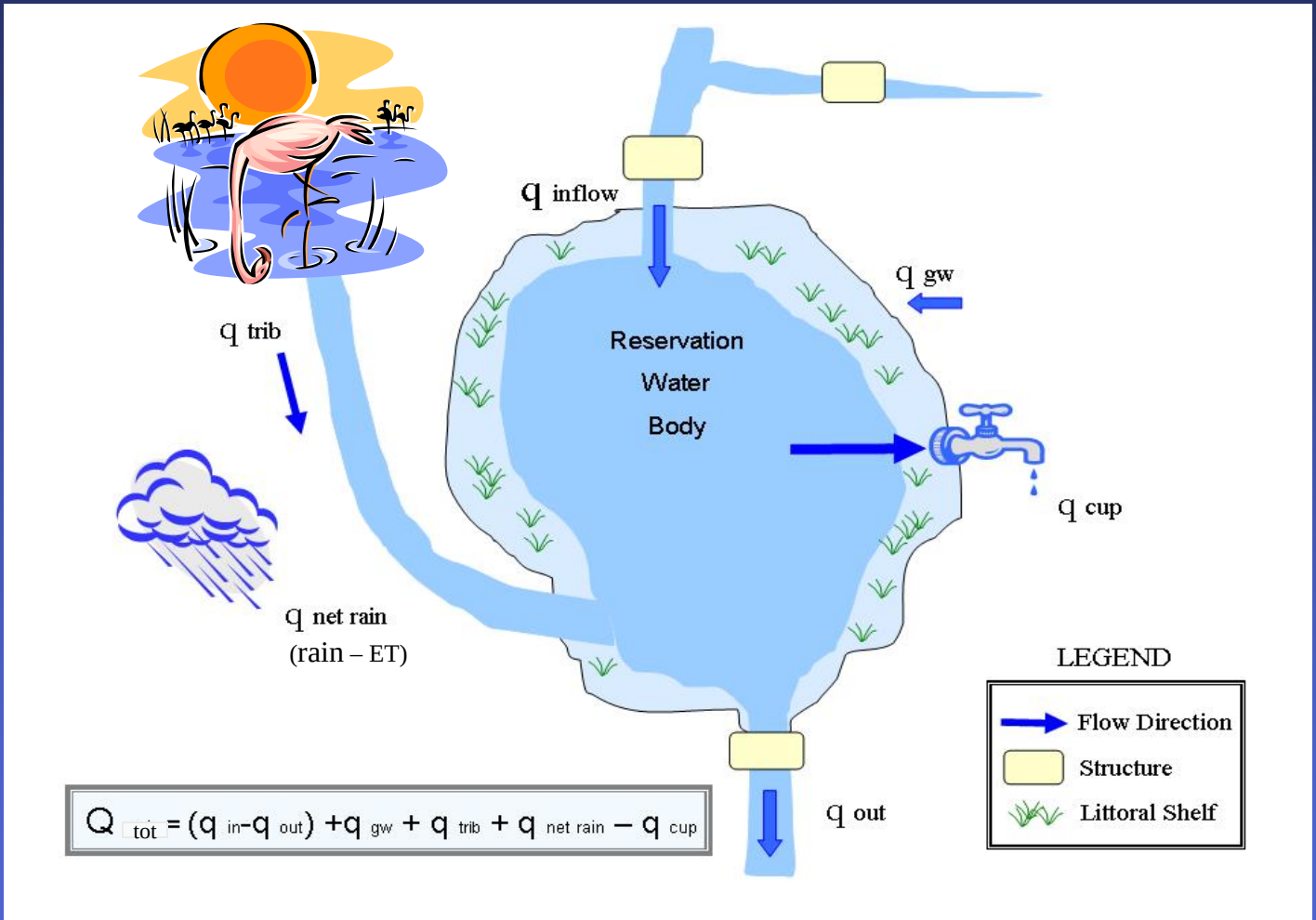
- Initiate rule development: June, 2008
- Complete draft tech report: February, 2009
- Scientific peer review of data, analysis, & assumptions used to determine water reservation: March/April, 2009
- Workshop draft rule language & criteria: February through June, 2009
- Seek Board approval to publish the final draft rule in Florida Administrative Weekly: June, 2009

# Wow, that seems easy!

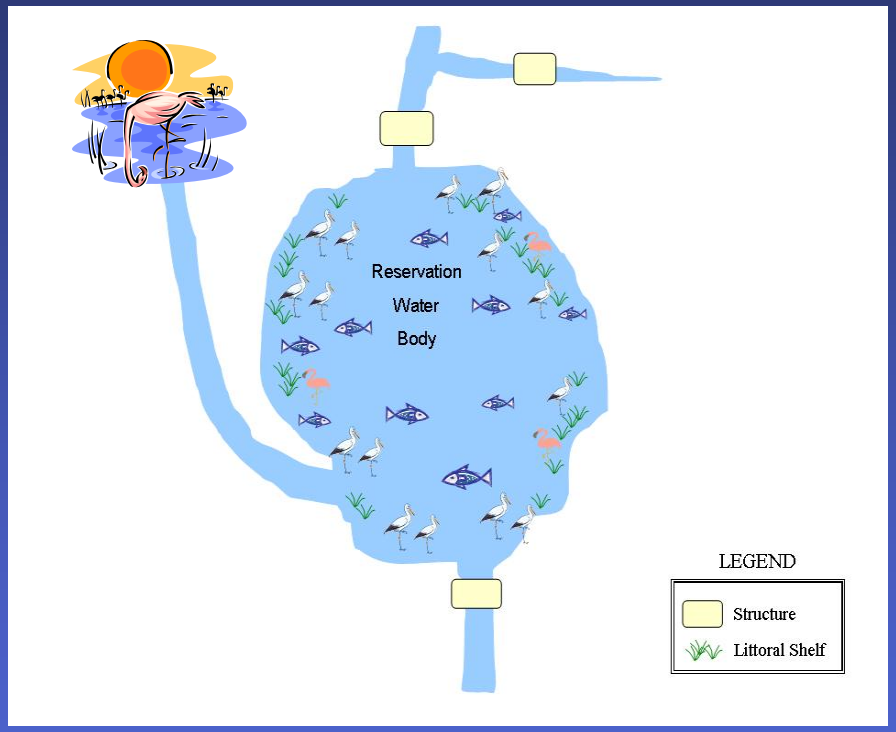
# Step 1: Identify Reservation Waterbodies

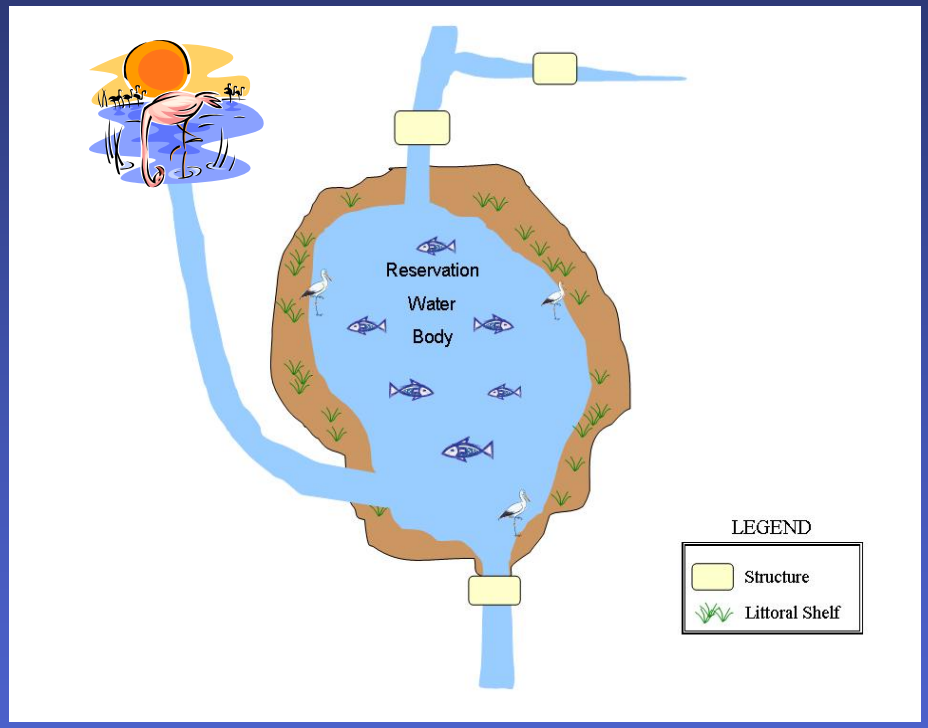


# Step #3: Identify 'with project' hydrology



# Step #4: Establish Linkages Between Hydrology and Biology




Littoral shelf inundation, depth seasonality