

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
FEBRUARY 14, 2006
Substitute Page

Item 1 Minutes

Submittal of the Minutes from the December 13, 2005 Cabinet Meeting.

(See Attachment 1, Pages 1-19)

RECOMMEND APPROVAL

Substitute Item 2 Confirm DEP Representative for Sanctuary Oversight

REQUEST: Consideration of a request to permanently confirm the Director of the Office of Coastal and Aquatic Managed Areas as the Department of Environmental Protection's representative to work in consultation with the superintendent of the Florida Keys National Marine Sanctuary (Sanctuary) for the oversight of Sanctuary operations.

COUNTY: Monroe and Miami-Dade

APPLICANT: Department of Environmental Protection (DEP), Office of Coastal and Aquatic Managed Areas (CAMA)

LOCATION: Florida Keys National Marine Sanctuary

STAFF REMARKS: This request pertains to the provision of the January 28, 1997 Board of Trustees' resolution governing management of sovereignty submerged lands within the Sanctuary.

Provision 8, page 3, of the resolution requires the Secretary of DEP to designate, with subsequent confirmation by the Board of Trustees, a DEP employee as its representative as an equal partner to work in consultation with the Sanctuary superintendent for the oversight of Sanctuary operations. The Director of CAMA is responsible for the cooperative management of the Sanctuary with the National Oceanic and Atmospheric Administration (NOAA). Previous designees have been individually confirmed, but if the Board of Trustees so approves, all Directors of CAMA hereafter will serve as DEP's Sanctuary co-trustee, unless provided further direction by the Board of Trustees.

(See Attachment 2, Pages 1-4)

RECOMMEND APPROVAL

Substitute Item 3 St. Lucie Marine Marina Recommended Consolidated Intent

REQUEST: Consideration of an application for (1) a ten-year sovereignty submerged lands lease containing 268,386 square feet, more or less, for a proposed commercial marina; and (2) authorization for the severance of approximately 24,522 cubic yards of sovereignty material.

COUNTY: Martin
 Lease No. 4300338126
 Application No. 43-0203931-002

APPLICANT: St. Lucie Marine Marina

LOCATION: Section 32, Township 37 South, Range 41 East, in the North Fork of the St. Lucie River, Class III Waters, within the jurisdiction of the City of Stuart
 Aquatic Preserve: No
 Outstanding Florida Waters: No
 Designated Manatee County: Yes, with an approved manatee protection plan
 Manatee Aggregation Area: No
 Manatee Protection Speed Zone: Yes (slow speed year-round)

CONSIDERATION: \$64,869.03, representing (1) \$34,216.53 as the initial lease fee computed at the base rate of \$0.1342 per square foot, discounted 30 percent because of the "first-come, first-served" nature of the facility, and including the initial 25 percent surcharge payment; and (2) \$30,652.50 for the severance of sovereignty material computed at the rate of \$1.25 per cubic yard, pursuant to section 18-21.011(3)(a), F.A.C. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual income value pursuant to paragraph 18-21.011(1)(a)1, F.A.C.

STAFF REMARKS: In accordance with rules adopted pursuant to Sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of Chapter 373, F.S., and the authorization to use sovereignty submerged lands under Chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity, which require authorization to use sovereignty-submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The applicant is proposing to construct a 100-slip commercial docking facility to be used in conjunction with the upland commercial marina facility and install approximately 125-linear feet of seawall, landward of mean high water, at the west end of the property that will tie into the existing seawall along the east end of the property. In addition, the applicant is proposing

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to install a boatramp, two travel lift piers and a finger pier off of the existing seawall to be used as a launch and retrieval area for the vessels using the facility. The facility will accommodate recreational vessels ranging up to 65 feet in length with drafts up to 7 feet.

A minimum of 90 percent of all of the slips will be maintained on an open to the public, first-come, first-served basis, and this requirement has been included as a special lease condition. The slip rental terms will be for no longer than one year.

The applicant is also proposing to dredge approximately 24,522 cubic yards of sovereignty material to a depth of -8-ft. NGVD to allow for sufficient depths for navigation within the marina basin. The spoil will be disposed of in an upland spoil site. Pursuant to section 18-21.011(3)(a), F.A.C., severance fees have been paid to the Division of State Lands.

There is currently a marina office on the uplands for the existing 22-slip marina on privately owned submerged lands along Haney Creek. The marina office, as well as the two existing dry stack storage areas that contain approximately 100 dry slips, will remain. The existing dry storage area on the western edge of the lot will be rearranged to facilitate additional parking as needed.

The existing marina conducts boat cleaning, painting, and maintenance on the uplands and has a wash water treatment and recycling system with a pit, which is designed to capture all wash water, paint chips, etc. There is an existing travel lift and boatramp, along Haney Creek, which is used to remove vessels to conduct these activities. There will be no overwater painting, maintenance, or cleaning within the proposed sovereignty submerged lands lease area.

The proposed lease will contain the following new standard lease condition:

“3. WET SLIP RENTAL CERTIFICATION/SUPPLEMENTAL PAYMENT:

(A) The Lessee shall provide upon request by the Lessor any and all information in a certified form needed to calculate the lease fee specified in paragraph two (2) above, including the income, as defined in subsection 18-21.003(26), Florida Administrative Code, derived directly or indirectly from the use of sovereignty submerged lands on an annual basis. When six percent (6%) of said annual income exceeds the base fee or minimum annual fee established pursuant to Rule 18-21.011, Florida Administrative Code, for any lease year during the term of this lease, the Lessor shall send the Lessee a supplemental invoice for the difference in the amounts for that lease year. (B) The instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the leased docking facility to a third party shall include a provision that clearly notifies the wet slip renter/user/holder that if the wet slip renter/user/holder subsequently transfers his right to use said wet slip to another party, the instrument or

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agreement used to transfer said wet slip shall contain a provision that requires six percent (6%) of the annual gross income derived from said instrument or agreement for the use of said wet slip be paid to the Lessee who, upon receipt, shall report and transmit said amount to the Lessor. The instrument or agreement used by the Lessee to transfer a wet slip shall also include a provision that clearly notifies the wet slip renter/user/holder that no interest in said wet slip may be further transferred unless a substantially similar provision to the one contained in the preceding sentence is placed in each succeeding instrument or agreement used to transfer said wet slip to each new wet slip enter/user/holder.”

The project was noticed as required and numerous letters of concern were received. The letters concerned marina size, liveaboards and water quality, riparian rights, aesthetics, property values, vessel mooring, floating docks, environmental impacts, natural resources, and a seaplane landing strip. DEP issued a letter addressing these concerns (attached).

DEP’s environmental resource permit (43-0203931-002) does not authorize sewage pumpout facilities, liveaboards, or fueling facilities. There are no seagrasses at the subject site. Avoidance and minimization of impacts to mangroves has been addressed in the permit.

The recommendations of the Florida Fish and Wildlife Conservation Commission (FFWCC) regarding the protection of manatees have been addressed in the permit and/or included as special lease conditions. Martin County is a designated manatee county with an approved manatee protection plan. FFWCC has determined that this project is consistent with the Martin County Manatee Protection Plan.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The proposed action is consistent with the adopted plan, according to a letter received from the city of Stuart on July 28, 2005.

(See Attachment 3, Pages 1-30)

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS AND PAYMENT OF \$64,869.03

Item 4 2006 Florida Forever Annual Report/Priority List

REQUEST: Consideration of (1) the 2006 Florida Forever Annual Report of the Acquisition and Restoration Council; and (2) the 2006 Florida Forever Annual Priority List.

Substitute Item 4 cont.

STAFF REMARKS: The 2006 Florida Forever Annual Report was prepared pursuant to chapter 259, F.S., and chapter 18-24, F.A.C. During the Acquisition and Restoration Council (ARC) meetings of June 3, August 12, October 14, and December 9, 2005, ARC removed two projects, amended the boundaries of another project, moved one project from Group A to Group B, and moved one project and the Phase I portion of another project from Group B to Group A on the Florida Forever Priority List.

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The Annual Report includes the 2006 Florida Forever Annual Priority List of acquisition projects approved by ARC on December 9, 2005 and proposed for adoption by the Board of Trustees.

<u>Projects Removed From List</u>	<u>Reason</u>	<u>County</u>
Letchworth Mounds	100% Complete	Jefferson, Leon
Searcy Estate	100% Complete	Wakulla

<u>Projects with Boundary Amendments</u>	<u>Acres</u>	<u>County</u>
Yellow River Ravines	974	Santa Rosa

<u>Projects Moved From Group A to Group B</u>	<u>Reason</u>	<u>County</u>
Pine Island Slough Ecosystem	Unwilling Sellers	Osceola, Indian River

<u>Projects Moved From Group B to Group A</u>	<u>Reason</u>	<u>County</u>
Pumpkin Hill Creek	Willing Sellers	Duval
Clear Creek/Whiting Field (Phase I portion only)	Willing Sellers	Santa Rosa

All property within the boundaries of the Florida Forever projects, unless specifically noted otherwise, are proposed to be purchased, in fee-simple or a lesser interest, for conservation purposes.

The Florida Forever Tool for Efficient Resource Acquisition and Conservation (F-TRAC) and Single Resource Ranking are analyses produced every six months by the Florida Natural Areas Inventory (FNAI) to provide scientific support to ARC in advance of their biannual vote on Florida Forever land acquisition projects. The analyses provide a concise overview of the natural resource values of each existing and proposed Florida Forever project. A Single Resource Ranking is provided for 10 resource types outlined in the Florida Forever Act. The F-TRAC 2010 Scenarios show which projects offer the greatest return in resource protection given the estimated acreage likely to be acquired by Florida Forever. Complete documentation for the F-TRAC and Single Resource Ranking analyses may be downloaded from the FNAI website (www.fnai.org).

The F-TRAC and Single Resource Ranking analyses evaluate projects only according to natural resource values. Other considerations such as willing sellers, active negotiations, completing projects, management feasibility, development threat, etc., are always part of any decision regarding project status. The information provided in these analyses is not intended to substitute for the informed judgment of expert decision makers. The analyses are a tool to guide decision-making, not a final conservation plan that must be followed. Nevertheless, the F-TRAC and Single Resource Ranking provide sound direction for Florida Forever, and decisions made to the contrary should be justifiable.

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Since 1999, the state's land acquisition programs have been extremely successful as evidenced by the protection of: over 450,000 acres of Strategic Habitat Conservation Areas (Florida Wildlife Conservation Commission); almost 840,000 acres of habitat conservation areas (FNAI), and over 930 listed species locations of 278 different species, 137 of which are state-listed as endangered, 52 state-listed threatened, and 23 species of special concern; over 680,000 acres of ecological greenways (Office of Greenways & Trails); over 100,000 acres of under-represented natural communities; almost 120,000 acres of natural floodplains; over 1,000,000 acres important to significant water bodies; nearly 26,000 acres of fragile coastline; over 550,000 acres of functional wetlands; over 160,000 acres of significant groundwater recharge areas; over 240,000 acres of land to support priority recreational trails; and, almost 420,000 acres of sustainable forest land. Also, almost 5,400 acres of archaeological and historic sites have been protected, over 207,605 acres have been added to state parks and buffer preserves. Note: these acreages were derived from the most recently updated Florida Forever data layers, which are continuously amended to reflect the most current scientific analyses of Florida's natural resources. Additionally, the acreages recorded for each measure often overlap, and thus should not be added together. Collectively, the State of Florida has protected nearly 1.2 million acres of land under the Florida Forever program since 1999.

The 2006 Florida Forever Annual Priority List is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

The Florida Forever Annual Report is being submitted in digital format.

(See Attachment 4, Pages 1)

RECOMMEND ACCEPTANCE OF THE 2006 FLORIDA FOREVER ANNUAL REPORT AND APPROVAL OF THE 2006 FLORIDA FOREVER ANNUAL PRIORITY LIST

Item 5 Favalora Purchase Agreement/Florida Keys Ecosystem Florida Forever Project

REQUEST: Consideration of (1) a purchase agreement to acquire 11.94 acres within the Florida Keys Ecosystem Florida Forever project from The Most Reverend John C. Favalora; and (2) the authority to waive the survey requirement.

COUNTY: Monroe

LOCATION: Section 20, Township 66 South, Range 29 East

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CONSIDERATION: \$396,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Marr (05/10/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	CLOSING <u>DATE</u>
Favalora	11.94	\$396,000	\$396,000	*	\$396,000** (100%)	120 days after BOT Approval

*Seller inherited the property on 9/23/2002.

** \$33,166 per acre or \$36,000 per ROGO allocation, (11 ROGO allocations).

Noted Features of Subject Property:

Value based on potential sale as ROGO points.

Waterfront, platted residential site

STAFF REMARKS: The Florida Keys Ecosystem project is an "A" group project on the Florida Forever Small Holdings Interim Project List approved by the Board of Trustees on August 23, 2005. The project contains 15,336 acres, of which 3,383.61 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 11,940.45 acres, or 78 percent of the project, will remain to be acquired.

On February 16, 2005, the Board of Trustees delegated authority to the Secretary of the Department of Environmental Protection, or designee, to (1) extend offers and approve any contract for the sale and purchase of land pursuant to section 259.041(1), F.S., at \$7,000 over, or up to 125 percent, per parcel of the current appraised value, whichever is greater, when purchase price per parcel does not exceed \$100,000; (2) recognize and appraise as Rate of Growth Ordinance parcels those parcels that previously qualified for Rate of Growth Ordinance designation; and (3) allow payments in lieu of litigation to settle claims by private landowners to lands that appear to be sovereignty lands, such payments not to exceed \$1,000 per parcel.

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

A title insurance policy and an environmental site evaluation will be provided by the purchaser prior to closing. It is the opinion of the Bureau of Survey and Mapping that the available boundary information is sufficient to reasonably protect the public's interest and any additional benefit derived from a survey is minimal relative to its cost; therefore, a waiver of the requirement for a survey of the property is being requested pursuant to section 18-1.005, F.A.C.

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The unique pine rocklands and hardwood hammocks of the Florida Keys, forest of West Indian plants that shelter several extremely rare animals, are being lost to the rapid development of the islands. Public acquisition of the Florida Keys Ecosystem project will protect all the significant unprotected hardwood hammocks left in the Keys and many rare plants and animals, including the Lower Keys marsh rabbit and Key deer. It will also help protect the Outstanding Florida Waters of the Keys, the recreational and commercial fisheries, and the reefs around the islands, and also give residents and visitors more areas for enjoying the natural beauty of the Keys.

The property will be managed by the Florida Fish and Wildlife Conservation Commission as part of the Florida Keys Wildlife and Environmental Area.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 5, Pages 1-22)

RECOMMEND APPROVAL

Item 6 Berman Conveyance/Marjorie Harris Carr Cross Florida Greenway

REQUEST: Consideration of a contract to sell a one-acre parcel of state-owned former Cross Florida Barge Canal land, which has been identified as surplus lands, pursuant to sections 253.7823 and 253.783, F.S., to Walter R. Berman.

COUNTY: Marion

APPLICANT: Walter R. Berman

LOCATION: Section 36, Township 15 South, Range 22 East

CONSIDERATION: \$185,100

		APPRAISED BY			
PARCEL	ACRES	Tompkins (03/08/05)	APPROVED VALUE	PURCHASE PRICE	CLOSING DATE
Berman	1.0*	\$185,100	\$185,100	\$185,100	120 days after BOT approval

* Underlying fee ownership currently titled to the Board of Trustees includes 2.96 acres of which 1.96 acres are encumbered by an improved DOT right-of-way.

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STAFF REMARKS: Title to this property was vested in the Board of Trustees through a conveyance by the Canal Authority of Florida in 1993. The Canal Authority acquired the property in 1970 via eminent domain from Mr. and Mrs. Richard Shiskin. It is currently managed by the Department of Environmental Protection's (DEP) Office of Greenways and Trails as part of the Marjorie Harris Carr Cross Florida Greenway (CFG). Section 253.7823, F.S., grants DEP the authority to sell surplus former barge canal lands if they are determined to be unnecessary to the effective provision of the type of recreational opportunities and conservation activities for which the greenway was created.

Pursuant to section 253.7823(1), F.S., DEP has identified this parcel as surplus. Location, appraised value, conservation and ecological factors, access problems, and difficulty of management were among the criteria considered in determining eligibility for surplus and sale. This parcel is not connected to the main corridor areas of the CFG and, therefore, is not easily managed for conservation or recreation purposes. The original parcel acquired by the Canal Authority consisted of 2.96 acres of which 1.96 acres are encumbered by a right-of-way easement for CR464 and are not included in the surplus.

Section 253.783, F.S., sets forth specific procedures governing the surplus of former Cross Florida Barge Canal lands. The first part of the process, offering the property to the county in which the property is located, was undertaken in 1993. Marion County elected not to acquire the parcel. The property was next offered to the original owners or their heirs for purchase pursuant to section 253.783(2)(b), F.S. No original owners or heirs responded. Pursuant to section 253.783(2)(d), F.S., on November 9, 2005, the parcel was offered to the highest bidder at a public sale held in Ocala, Florida. The land and public sale were described and advertised in the Ocala Star Banner, in Marion County, for 14 consecutive days before the public sale. Also pursuant to section 253.783(2)(d), F.S., the current appraised value was advertised as the minimum acceptable bid. Walter Berman was the sole bidder with an amount of \$185,100. Mr. Berman currently holds an access easement granted by the Canal Authority in 1983 that encumbers 0.15 acre of the subject property.

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that surplus land sales are not subject to the local government planning process.

(See Attachment 6, Pages 1-14)

RECOMMEND APPROVAL

Item 7 **Vecellio & Grogan, Inc./White Rock Quarries Mining Lease/Determination/
Waiver**

REQUEST: Consideration of a request to (1) determine that direct negotiations with Vecellio & Grogan, Inc., d/b/a White Rock Quarries, to mine certain land in Miami-Dade County is in the public interest pursuant to section 18-2.018(1)(a), F.A.C.; (2) waive the competitive bid requirements of section 18-2.018(2)(i), F.A.C.; (3) enter directly into a commercial limerock mining lease with White Rock Quarries on approximately 440 acres, more or less, of state-owned land for one ten-year term followed by three additional five-year renewal terms; and (4) approve a proposed memorandum of agreement between the Board of Trustees, South Florida Water Management District & White Rock Quarries and delegation of authority to negotiate the final terms and conditions of the memorandum of agreement, so long as the final terms are substantially consistent with those contained in the draft memorandum of agreement attached as Exhibit "A" to the lease.

COUNTY: Miami-Dade
Lease No. 4497

APPLICANT: Vecellio & Grogan, Inc., a West Virginia corporation, d/b/a White Rock Quarries (White Rock)

LOCATION: Section 05, Township 52 South, Range 40 East.

CONSIDERATION: As Prepaid Royalty Payments: \$125,000 for the period from March 1, 2006 to December 31, 2006, \$150,000 per year through February 28, 2009 (or until all permits have been procured, whichever occurs first); and \$250,000 per year thereafter. All Prepaid Royalty Payments shall be prorated for any period less than one year, at the applicable Prepaid Royalty rate. In addition, White Rock will pay the Board of Trustees \$0.95 per short ton for all limerock yielded from the leased premises with Prepaid Royalty Payments to be credited against Royalty Payments.

STAFF REMARKS: The Board of Trustees originally acquired the subject lands pursuant to chapter 18296, 1937 Laws of Florida, known as the Murphy Act. The act provided for statutory forfeiture of lands for nonpayment of taxes. Tax certificates unredeemed as of June 9, 1939, were automatically converted to fee simple title in the name of the state.

The Department of Environmental Protection (DEP), Division of State Lands (DSL) received a request from White Rock to lease approximately 440 acres, more or less, for limerock mining in Miami-Dade County (County).

The Section 5 lands are located in the northeast portion of the Miami-Dade Lake Belt Area in unincorporated Miami-Dade County and are suitable for mining under both the Northwest Dade County Freshwater Lake Belt Plan (LBP) and the Comprehensive Everglades Restoration Plan (CERP). The property is vacant and infested with melaleuca. Additionally, the property is located outside the 2005 Urban Development Boundary of Miami-Dade County and is

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designated as "Open Land" on the Adopted 2005 and 2015 Land Use Plan. The Open Land category is land that is intended for agriculture, limestone extraction and/or other resource-based activities. The area has been identified as being "Rockmining Allowable" pursuant to the LBP.

The primary land use in the general area is limerock mining. In the future a significant use of larger open land parcels in the subject area is expected to become limerock mining operations. Mining operations have been ongoing for a number of years and supply good quality limestone for road and other construction in the South Florida area.

Approximately 440 acres within Section 5 are Board of Trustees-owned while White Rock owns approximately 115 acres, and approximately 52 acres are held in private ownership. The South Florida Water Management District (SFWMD) holds title to approximately 20 acres in Section 5 and owns all of Section 4 west of the Turnpike Extension. All lands in Section 5 currently owned by White Rock will be conveyed to SFWMD prior to commencement of mining. It should be noted that under the LBP, lands north of U.S. Highway 27 are not required to be transferred into public ownership after mining is complete. This condition is normally a permit requirement for lands south of U.S. Highway 27.

A Memorandum of Agreement (MOA) between White Rock, SFWMD and the Board of Trustees has been drafted to facilitate transfer of ownership prior to mining. The intent of the MOA is to establish a cooperative process to consolidate title for land in Sections 4 and 5, Township 52 South, Range 40 East; to develop a mining plan to allow the maximum revenue to the Board of Trustees and SFWMD for the extraction and sale of the limestone resources of the combined sites, and to specify the methodology to be used to apportion the payment amounts from White Rock to the Board of Trustees and SFWMD. White Rock is committed to using its best efforts to acquire out parcels in Section 5 to allow the most efficient mining of the mineral resources. In addition, White Rock is committed to SFWMD to exchange land owned by White Rock in Section 5, for nearby land owned by SFWMD.

The Board of Trustees and SFWMD commit to developing a mutually acceptable royalty calculation and disbursement methodology to promote a reliable quantification of payments due and predictable revenue streams for each agency based on that agency's ownership. DEP and SFWMD also agree to allow White Rock to file applications for permits and approvals to permit limerock mining on the Lake Belt properties as Board of Trustees and SFWMD may be required to join in certain permit applications as the property owner.

Pursuant to subsection 18-2.018(2)(i), F.A.C., equitable compensation shall be required when the use of uplands will limit or preempt use by the general public. The Board of Trustees shall award authorization for such uses on the basis of competitive bidding rather than negotiation, unless otherwise provided herein or determined by the Board of Trustees to be in the public interest pursuant to the results of an evaluation of the impacts, both direct and indirect, which

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may occur as a result of the proposed use. Relevant factors to be considered in the evaluation shall include those specified in subsection 18-2.018(1), F.A.C.

Pursuant to section 18-2.018(1)(a), F.A.C., the decision to authorize the use of Board of Trustees-owned uplands requires a determination that such use is not contrary to the public interest. The public interest determination requires an evaluation of the probable impacts of the proposed activity on the uplands. All direct and indirect impacts of the proposed activity as well as the cumulative effects of those impacts shall be taken into consideration. Relevant factors to be considered include: conservation, general environmental and natural resource concerns, wetland values, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, recreation, aesthetics, economics, public health and safety, relative extent of the public need for the proposed use or activity, reasonable alternative locations and methods to accomplish the objective of the proposed use or activity, potential detrimental effects on the public uses to which the area is otherwise suited, the effect on cultural, scenic and recreational values, and the needs and welfare of the people.

Relevant public interest factors:

Environmentally and natural resource-wise, it is in the public's interest to consolidate the public land ownership in Section 5 to maximize the water storage capacity for water quantity and quality.

- The CERP has proposed that some completed limestone quarries, including most of Section 5, be converted to water storage facilities and serve as critical components for ensuring water quantity and quality within the context of Everglades restoration. Consolidating ownerships will eliminate unmined buffer strips and will maximize storage capacity by up to 50 percent.
- In order for the quarry in Section 5 to be used as a reservoir, it will be necessary for SFWMD to obtain ownership rights so the land can be converted to the public use for water storage. Since White Rock is a major landowner within this area, it is not only willing but also the only entity able to resolve this issue. As mandated in the mining lease, SFWMD will receive fee simple ownership of the lands it receives from the land exchange.

Economically it is in the public interest for the Board of Trustees to collect the maximum amount of revenue possible from the proposed mining lease and to generate an additional revenue source for SFWMD to use for acquiring additional environmental lands needed for Everglades Restoration.

- White Rock currently owns, or may soon acquire, virtually all of the non-public lands in Section 5. White Rock's willingness to exchange its ownership within Section 5 with SFWMD will result in both the Board of Trustees and SFWMD receiving royalties based on their pro rata ownership in Section 5. With the advantage of an efficient mining footprint, almost twice

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as much limerock could be produced, or nearly 60 million tons from the state land. This would obviously translate in to twice as much revenue over the period of the lease. SFWMD will receive a comparable amount of lease revenues and will dedicate its revenue toward Miami-Dade area Everglades Restoration land acquisitions.

- In addition to direct royalty revenues, SFWMD could potentially collect twice as much wetland mitigation money (6.5 million vs. 3.3 million dollars) if White Rock mines the property rather than another miner. Under the conditions of the LBP, the mitigation fee is based on the amount of material sold and is used under the direction of the Lake Belt Mitigation Committee to mitigate for the wetland impacts related to the mining.

General business factors to be considered:

- Vecellio & Grogan, Inc., White Rock Quarries' parent company, has been in business for more than a century. The White Rock quarry adjacent to Section 5 is the second largest producer of construction aggregate in the United States.
- In September 2005, White Rock bought a new dragline with a 105 cubic yard capacity. To put this into perspective, a conventional dragline has a bucket capacity of eight cubic yards. This has a very practical impact on the Section 5 lease. Using its new dragline, White Rock will be able to effectively mine 175,000 tons of limerock per acre. Because of the ownership patterns within Section 5, any other miner would, out of necessity, be forced to use a conventional dragline. Technical limitations restrict a conventional dragline to approximately 110,000 tons of limerock per acre.
- White Rock also has the production and marketing ability to provide maximum annual revenue from the lease. The Board of Trustees' cash flow, as well as total revenue, would be maximized.
- At a royalty rate of \$0.95 per short ton, White Rock's annual average production could potentially produce initial revenue in excess of \$3 million at today's prices. Staff negotiated the this rate pursuant to an appraisal performed by Slack Johnston Magenheimer which revealed the royalty income potential at the current rate of \$0.75 to \$1.00 per short ton and/or eight percent to ten percent of the retail price of aggregate, whichever is greater.
- The Board of Trustees will receive the most revenue from this lease in the shortest possible time and will be able to expeditiously prepare Section 5 as a future water storage area for CERP.

Because of the above variety of factors, staff is of the opinion that negotiating a direct lease with White Rock is the best way to obtain the greatest public benefit. Additionally, the lease contains language that automatically and immediately terminates the lease if the land exchange with SFWMD and MOA have not been completed within one and one half years from date of

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the full execution of the lease and, all Prepaid Royalty Payments made will be refunded to WRQ within 60 days after the termination date.

In accordance with section 18-2.019(5)(a), F.A.C., state agencies were notified of the potential lease and did not express any need for the property. However, the Department of State, Division of Historical Resources (DHR) identified two recorded archeological sites on the subject property (8DA5917 and 8DA5918). Site 8DA5917 has been determined to *not* meet the criteria for listing on the *National Register of Historic Places*, while site 8DA5918 has been determined to meet the criteria for listing on the *National Register of Historic Places*. In anticipation of mining, White Rock hired an archeological consultant to further evaluate site 8DA5918. DHR reviewed the results of that evaluation and approved language has been incorporated in the lease that will ensure the site is treated properly.

Pursuant to chapter 253.115, F.S., property owners within 500 feet of the proposed lease area were noticed on December 12, 2005. Although 79 notices were sent out, only one property owner responded with questions that were satisfactorily addressed by White Rock.

Staff also contacted DEP's representative on the legislatively established Miami-Dade County Lake Belt Plan Implementation Committee that held regular meetings until January 1, 1999, when it completed its legislative mandate. The Lake Belt Committee formulated the LBP that was subsequently accepted by the Legislature. The 440-acre parcel in Section 5 is designated as "Rockmining Allowable" in the LBP and will not have any negative impacts in the Northwest Wellfield area.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs has determined that the plan is in compliance. The proposed mining lease is consistent with the adopted Miami-Dade County Comprehensive Development Master Plan Land Use Plan map pursuant to a letter dated February 9, 2004 from Miami-Dade County.

(See Attachment 7, Pages 1-39)

RECOMMEND APPROVAL